

(H. B. 4790)

(No. 416)

(Approved September 22, 2004)

AN ACT

To repeal and replace Act No. 9 of June 18, 1970, as amended, known as the “Environmental Public Policy Act”; Act No. 13 of July 7, 1973, the provisions of which were included under Title IV of the new law known as the “Spillage of Harmful Substances Act”; Act No. 81 of July 2, 1987, as amended, known as the “Puerto Rico Environmental Emergency Fund Act”; Act No. 297 of August 21, 1999, known as the “Environmental Research Laboratory of Puerto Rico Act”; Act No. 257 of August 31, 2000, known as the “Environmental Trust Fund for Puerto Rico and the Caribbean Act”; Act No. 310 of September 2, 2000, known as the “Pollution Prevention Act”; Act No. 25 of April 24, 2001, known as the “Noise Prohibition Act”; Act No. 234 of September 27, 2002, known as the “National Environmental Awareness and Reflection Day in Puerto Rico Act”; and Act No. 160 of July 3, 2003, known as the “Noise Awareness Day in the Commonwealth of Puerto Rico Act.” The purposes of this Act are to update the provisions of the Environmental Public Policy Act of the Commonwealth of Puerto Rico; to promote a stronger and more efficient environmental protection; to create an environmental databank and digital information system; to ensure that environmental issues are included and considered in the government’s efforts to address the social and economic needs of our population, among others; to promote the evaluation of other government policies, programs and efforts which may conflict with or hinder the achievement of the objectives of this Act; to create the Environmental Emergencies Response Planning Committee, attached to the Environmental Quality Board, which exists since 1987, as provided by Executive Order to comply with federal requirements and to establish its duties and responsibilities.

STATEMENT OF MOTIVES

At a time when Act No. 9 of June 18, 1970, as amended, better known as the “Environmental Public Policy Act of the Commonwealth of Puerto Rico,” is nearing thirty-four years as of its effective date, it becomes ever more evident that we need to update its provisions, so that they may conform to the needs and realities of our times, to strive to achieve a stronger and more efficient environmental protection, and to ensure that environmental issues are included and taken into account in all government efforts directed to meeting the social, the economic, and other needs of the present and the future generations of Puerto Ricans.

As we have stated before, in 1970, the Commonwealth of Puerto Rico took a major step to further the protection of the true foundation of its future development. The approval of the “Environmental Public Policy Act” served the purpose of setting forth the Commonwealth’s public policy, which calls for the use of “all practical means and measures with the purpose of encourage and promote the general welfare, in order to create and maintain conditions under which human beings and nature are able to coexist in productive harmony and to meet the social, the economic, and any other needs that may arise for the present and the future generations of Puerto Ricans.” Not only did this legislation predate the first major world summit on environmental affairs, held in Stockholm in 1972, as well as constitute the first and main statutory framework adopted in Puerto Rico to address in an integrative manner the Island’s concrete issues as pertains to environmental management and protection—such legislation also appointed the Environmental Quality Board as the first regulatory agency in America to see to the control of pollution and environmental degradation.

The Legislature of Puerto Rico entrusted the Environmental Quality Board with the mission to protect the environmental quality by exercising control over the air, water, and soil pollution, as well as noise pollution, and to use all practical means and measures to create and maintain conditions under which man and nature are able to coexist in productive harmony and to meet the needs that may arise for the present and the future generations of Puerto Ricans.

The statement of motives of Bill No. 879, considered by the House of Representatives in 1970, set forth the need to “recognize that both the government programs and the legislation in effect on the matter of the management and administration of our natural resources, to wit, land, water, the air we breathe, as well as the disposal of the sum total, the ever-increasing volume of which is alarming, are insufficient and inadequate to handle the magnitude and complexity of such issues.” [Unofficial translation] The Committees on the Judiciary-Civil and on Health and Welfare, on their part, in their Joint Report to the Senate of Puerto Rico on substitute bill for S. B. 258 and S. B. 703, stated that:

“We must maintain an environment that accords us and our surroundings the greatest purity and cleanliness of air and water, the conservation of our natural resources, such as our forests, rivers, beaches, as well as our fauna, our flora, and all kinds of marine and aquatic species. Cars, industrialization, the population growth, the growth of urban zones are—together with the destruction and the waste they generate—the worst enemies of our environment and our full enjoyment of healthy living in our planet.”

Diario de Sesiones del Senado de Puerto Rico [lit.: the Journal of Sessions of the Senate of Puerto Rico], April 21, 1970, [original Spanish

text] at page 780. With a clear vision of the future, which attests to the thorough understanding of the importance of striking harmony between the human endeavor and the environment, these legislative committees advised that “There could come a time, if the necessary controls and measures are not established, when the very life of humankind on Earth might be in jeopardy.” *Idem* [original Spanish text], at pages 780-781.

In light of the foregoing, when creating the Environmental Quality Board, the Legislature noted that “the delicate functions hereby commissioned hold the utmost importance as pertains to the welfare and the health of the present and the future generations of Puerto Ricans.” *Idem* [original Spanish text], at page 781. Furthermore, the Legislature deemed that, in order to implement the public policy of Puerto Rico and to achieve its legislative intent, it was necessary for the institution to be created to hold “the highest standing, so that it may be able to promote, coordinate, and direct the efforts of all agencies and sectors involved” or to be “a policy-making body invested with the highest standing within the government structure.” *Idem* [original Spanish text], at pages 780-781.

The increasingly growing interest of citizens in Puerto Rico and all over the world in this subject has raised the levels of awareness concerning the environmental aspects of development, which awareness has been little or even nonexistent, throughout the history of our region. However, there are problems to overcome, such as the mindset of certain sectors which believe that principles such as environmental protection and sustainable development are tantamount to restrictions on or hindrances to economic and social development. These errant misconceptions have constrained our ability—as well as that of all other countries—to refrain the ever-increasing environmental deterioration of critical ecosystems and to control pollution.

Both in general terms and in comparison to many other countries, Puerto Rico enjoys good environmental conditions; however, if we do not pursue new strategies and actions, we shall stand witness to the gradual depletion of our natural resources and the degradation of environmental quality. If we should fail to institute preventive measures, we shall well be on our way to creating and bequeathing a markedly deteriorated quality of life to our future generations.

This bill of law takes into account the fact that, in addition to the oversight and rule-making authority conferred onto the Environmental Quality Board, such Board is empowered to establish, among other things, the proper requirements to ensure compliance by the whole of the Government of the Commonwealth of Puerto Rico with the provisions of the Environmental Public Policy Act, and most particularly, to adopt regulations as necessary for the application of provisions governing environmental impact statements. Equally or more important is the fact that the Environmental Public Policy Act requires that the Chair of the Environmental Quality Board submit an annual report on the environmental status.

The authority and the mission conferred onto the Environmental Quality Board were broadened with the assignment of conducting the review and assessment of Government programs and activities, in light of the public policy established in the Environmental Public Policy Act “[...] with the purpose of determining the extent to which such programs and activities do contribute to the achievement of such policy,” and presenting recommendations to the Governor on said matter. Furthermore, such public instrumentality was entrusted with “developing and presenting recommendations before the Governor on a public policy to encourage and

promote the improvement of environmental quality and to manage conservation, social, economic, and health issues, as well as other requirements and goals of the Commonwealth.” Lastly, but not less important, we are bearing in mind that the Environmental Quality Board has been entrusted with the task to coordinate the yearly observance of the National Environmental Awareness and Reflection Day in Puerto Rico on July 1. The motif of the day to be observed shall stress on, but not be limited to promoting lifestyles and consumer habits which have a low impact on the environment; modifying negative environmental behavior; assessing, monitoring, and minimizing our ecological footprint; observing the sustainable development philosophy pursuant to points established under Agenda 21; preventing pollution and environmental degradation; and developing sustainable communities, as provided for in said Act.

The establishment of the National Digitized Environmental Information System, together with its Advisory Council and its Access Center, shall provide the Environmental Quality Board with, and enable such Board to render available to all other government agencies, the private business sector, and the general public, the data and information which are vital for compliance with the provisions of the Environmental Public Policy Act. Moreover, this Act shall enable and complement other powers and duties conferred onto that agency, such as: (1) adequate environmental emergency response and planning; (2) gathering apposite and authoritative information on current and projected environmental conditions and trends to analyze and interpret such information, in order to determine whether such conditions and trends are interfering or might interfere with the achievement of the environmental public policy of Puerto Rico, as well as compiling and submitting to the Governor studies on such conditions and trends; (3)

documenting and defining changes in the natural environment, including plant and animal systems, and gather the necessary information and other information as necessary and convenient to conduct an ongoing analysis of these changes or trends and to interpret their foundational causes; and (4) adopting, promulgating, amending, and repealing regulations to establish a mechanism to control the quality of the data generated by the sampling and analysis of parametric indicators of environmental quality, whether current or created by a pollutant source, which are to be made compliant with the norms and requirements set forth in the applicable environmental regulations, including, but not limited to: (a) establishing a procedure conducive to the certification and accreditation of public or private institutions, corporations or individuals that generate data on environmental quality in compliance with environmental regulations, and (b) keep a register of public or private institutions, corporations or individuals that generate data on environmental quality and waste generated by pollutant sources, in order to assure the reliability of such data with the purpose of expediting the validation process concerning data before the consideration of the Environmental Quality Board.

In order to achieve the objectives set forth herein, it is necessary: (1) to make changes in the current organizational structure of the Environmental Quality Board, (2) to create a digitized environmental databank and to institute the best technology available for the validation and management of such data, (3) to reassert its authority to evaluate government actions and programs which might be in conflict with the powers and responsibilities delegated thereto or which may delay or hinder compliance with the public policies of the Commonwealth of Puerto Rico on the environment and on sustained development, (4) to reassert the powers and responsibilities

conferred onto the Environmental Quality Board, and (5) to require the establishment of interagency agreements for the implementation of the Environmental Public Policy Act and the various special laws applicable to natural resource conservation and management, hazardous and non-hazardous waste management, treatment and disposal, and environmental emergency response and planning.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.—Title.—

This Act shall be known and may be cited as the “Environmental Public Policy Act.”

Section 2.—Purposes.—

The following are the purposes of this Act:

1. Establishing a public policy that fosters a desirable and convenient harmony between humankind and its environment;
2. Promoting efforts that would prevent or eliminate environmental and biospheric harm and foster health and wellness in humankind;
3. Broadening the understanding of major ecological systems and natural sources in Puerto Rico; and
4. Establishing an Environmental Quality Board.

TITLE I

STATEMENT OF ENVIRONMENTAL PUBLIC POLICY

Section 3.—Statement of Environmental Public Policy.—

A. The Commonwealth of Puerto Rico, in full awareness of the profound impact of human activity on the interrelations of all components of the natural environment, especially the far-reaching influence of population growth, high urban density, industrial expansionism, exploitable resources,

and the new and widespread technological advancements, and in full and further awareness of the critical importance of restoring and maintaining environmental quality for the total wellness and full development of humankind, hereby states that it is the ongoing policy of the Government of the Commonwealth, including its municipalities, in cooperation with all public and private organizations so interested, to use all practical means and measures, including technical and financial assistance, with the purpose of encouraging and promoting general wellness and ensuring that all natural systems are healthy and able to sustain life in all its forms, as well as social and economic activity, within the framework of a culture of sustainability, in order to create and maintain conditions under which humankind and nature can coexist in productive harmony and to meet the social, the economic, and any other needs that may arise for the present and the future generations of Puerto Ricans.

B. The Commonwealth recognizes that all persons are entitled and should enjoy a healthy environment and that all persons are responsible for making their contribution to the conservation and improvement of the environment. Likewise, all persons responsible for polluting our soils, waters, and atmosphere shall be accountable for decontamination- and restoration-related costs, and when applicable, for compensating the people of Puerto Rico for harm inflicted.

C. In harmony with the foregoing and in full awareness of the importance and the relation among social, economic and environmental factors, the Commonwealth of Puerto Rico shall procure its sustainable development based on the following four comprehensive objectives: (1) the most effective protection of the environment and natural resources; (2) the most prudent and efficient use for the benefit of all citizens; (3) social

progress that acknowledges everybody's needs; and (4) reaching and maintaining high and stable economic growth and employment rates.

Section 4.—Duties and Responsibilities of the Government of the Commonwealth of Puerto Rico.—

A. In order to carry out the policy established under Section 2 of this Act, it shall be the ongoing responsibility of the Commonwealth to use all practical means, tempered with other essential public policy considerations, to improve and coordinate the plans, functions, programs, and resources of the Commonwealth so that Puerto Rico may be able to:

1. Fulfill the responsibilities of each generation as the custodian of the environment for the benefit of subsequent generations;

2. Secure safe, healthy, productive, and aesthetically and culturally pleasing landscapes for all Puerto Ricans;

3. Procure the fullest enjoyment of the beneficial uses of an environment free from degradation, health or safety risks or other undesirable consequences;

4. Preserve major historical, cultural and natural aspects of our patrimony and maintain, whenever possible, an environment that affords diversity and variety for individual selection;

5. Strike a balance between population and use of resources so as to allow for a high standards of living and wide participation in life's amenities; and

6. Improve the quality of renewable resources and see to the wise use of those resources liable to become depleted.

B. All departments, agencies, municipalities, public corporations, and instrumentalities of the Commonwealth of Puerto Rico and its political

subdivisions shall, to the broadest extent possible, interpret, apply, and administer all current laws and regulatory bodies, as well as those instituted in the future in strict conformance with the public policy set forth in Section 3 of this Act. Likewise, the departments, agencies, municipalities, and public corporations and instrumentalities of the Commonwealth of Puerto Rico and its political subdivisions are hereby directed to observe the following norms in implementing the public policy stated in this Act:

1. To use a systematic interdisciplinary approach to assure the integrated employment of natural and social sciences and the art of natural landscaping when making plans and decisions that might have an impact in the human environment.

2. To identify and develop methods and procedures, in consultation and coordination with the Environmental Quality Board established under Title II of this Act, in order to assure not only the consideration of economic and technical factors, but likewise, established value and amenity factors, even if these have not been economically assessed and evaluated.

3. To enclose with all recommendations or reports on proposed legislation, and to issue, before taking any government action or promulgating any government decision which significantly affects environmental quality, a written and detailed statement on:

- a. The environmental impact of the legislation thus proposed, the action to be taken or the decision to be promulgated;

- b. Any adverse effects on the environment that can not be prevented if such proposed legislation is approved and applied, if such government action is taken or if such

government decision is promulgated;

c. Alternatives for such proposed legislation, government action or government decision;

d. The relation between the short-term local uses of the environment and the long-term conservation and improvement of productivity; and

e. Any irrevocable or irreparable compromise of the natural resources that would be involved in the legislation proposed, if the same were to be implemented; in the government action, if it were to be taken; or in the government decision, if it were to be promulgated.

This provision shall not apply to findings or decisions issued by the Courts and the Governing Board of the Environmental Quality Board, in adjudicative cases. Neither shall the same apply to rule-making proceedings conducted by the Governing Board of the Environmental Quality Board by virtue of the powers and responsibilities conferred thereto by this or other Acts.

Before the body concerned attaches or issues the corresponding environmental impact statement, whereby such body finds that the action in question shall either have a significant impact or have no such impact, the official responsible therefor shall consult with and obtain from any other government body with jurisdiction or participative interest over the legislation proposed, the government action to be taken or the government decision to be promulgated, the latter's opinion concerning such legislation, action or decision.

A copy of such environmental impact statement and the opinions of the bodies thus consulted shall be remitted to the

Environmental Quality Board. Furthermore, these shall be made available to the public together with the proposed legislation, action or decision in order for government bodies to conduct the corresponding inspection and study.

The official responsible for issuing the environmental impact statement shall submit a copy thereof in electronic media, in the form to be established by the Environmental Quality Board. The Environmental Quality Board shall publish in electronic media such environmental impact statement on readily accessible media, free of charge, such as the World Wide Web. The electronic publication of the Environmental Impact Statement and its availability to the public shall coincide with the date on which such document shall be available to the public in hard copy.

4. To study, develop, and describe the alternatives proper to the courses of action recommended in any proposal involving unresolved conflicts relative to alternate uses of available resources.

5. To apply the precautionary principle, in the awareness that whenever and wherever there are threats of inflicting severe or irreversible harm, lack of full scientific certainty shall not constitute grounds for postponing cost-effective measures in order to prevent environmental degradation. Such application shall be predicated on the following premises: (1) persons, whether natural or juridical, are under the obligation to take action in advance to prevent harm or hazards; (2) the burden of proof concerning the absence of hazards that might be posed by the new technology, process, activity or chemical substance, shall fall on its proponent, not on the citizenry; (3) prior to using a new technology, process or chemical substance or

before engaging in a new activity, persons are under the obligation to evaluate a wide array of alternatives, including the non-action alternative; and (4) decisions whereupon this principle is applied shall be made public, informed, and democratic, and include the parties affected thereby.

6. To recognize the far-reaching, world-embracing nature of environmental issues, and whenever in harmony with the foreign policy of the United States, lend proper support to initiatives, resolutions, and programs designed to maximize international cooperation in forestalling or preventing deterioration in the world's environment wherein humankind thrives.

7. Furnish useful advice and information to municipalities, institutions, and individuals concerning environmental restoration, conservation, and improvement.

8. Elicit and use ecological information in resource-oriented project plans and developments.

9. Assist the Environmental Quality Board, established under Title II of this Act, in all projects or efforts directed to achieving the objectives of this Act, including, but not limited to being specially attentive and meeting all requirements in terms of compiling and periodically providing the Environmental Quality Board with authoritative information and data that enables the latter to assess and report on the status of environment and natural resources.

C. The Planning Board is hereby exempted from compliance with subsection B(3) of this Section in private projects wherein it is to intervene as to the location consultation process. In these cases, the body proposing or seeking consultation before the Environmental Quality Board shall be the

agency, department, municipality or public corporation or instrumentality with participative interest or recognized expertise in terms of the action proposed or the project's location.

D. All departments, agencies, municipalities or public corporations or instrumentalities of the Commonwealth of Puerto Rico and its political subdivisions shall have the ongoing responsibility of revising their statutory authority, their administrative regulations, and their policies and procedures, in order to determine whether there are any shortcomings or inconsistencies therein which might impede full compliance with the purposes and provisions of this Act, and propose to the Governor, after having complied with the requirements set forth in subsection (B) and having notified the Governing Board of the Environmental Quality Board, those measures which are necessary in order to temper their authority and their policies with the intent, purposes, and procedures established in this Act.

Section 5.—Savings Clause and Complementary Nature.—

None of the provisions of Section 4 shall by any means impair any of the specific statutory obligations of any agency regarding (1) compliance with environmental quality criteria or norms, (2) coordination or consultation with any other agency or (3) taking action or abstaining from taking action, contingent upon the recommendations or certifications issued by any other agency.

The policies and objectives outlined in this Act are complementary to those established in the already existing authorizations for agencies.

TITLE II
ON THE ENVIRONMENTAL QUALITY BOARD

Section 6.—Yearly Report on Environmental Status.—

The Chair of the Environmental Quality Board shall render before the Legislature and the Governor, a yearly report on environmental quality (hereinafter, the “Report”), stating: (1) the status and condition of Puerto Rico’s environment, including, but not limited to: air quality, water quality (including freshwater, saltwater or lake water; sources and nature of agents discharged into bodies of water; drinking water sources; and management plans for watersheds, and the progress attained in their application) and the soil environment (including, but not limited to solid waste management and disposal; woodlands, dry lands, wetlands, croplands; and urban, suburban and rural environments); (2) the current trends as to environmental quality, management and utilization and the effects of such trends on Puerto Rico’s requirements of a social, economic or other order; (3) the sufficiency of available natural resources to meet Puerto Rico’s human and economic requirements in light of the pressures from the expected population; (4) the reviewing of programs and activities (including regulatory activities) of the Federal Government, the Commonwealth of Puerto Rico, and its agencies and municipalities, as well as non-government organizations or persons, especially in connection with their effect on the environment and on natural resource conservation, development and employment; and (5) a program to remedy the shortcomings of existing programs and activities, together with recommendations for legislation.

The Report shall be submitted before the Legislature and the Governor on or before July 1 of each year; the same shall cover the environmental status at the closing of the preceding calendar year. The

Environmental Quality Board shall be empowered to adopt, promulgate, amend and repeal regulations as it may deem necessary in order to meet the requirements established in this Section.

Section 7.—Creation of the Board; Members; Terms.—

A. The Environmental Quality Board is hereby created, to be attached to the Office of the Governor of Puerto Rico. The Board shall be constituted by three (3) associate members, to be appointed by the Governor of Puerto Rico with the advice and consent of the Senate of Puerto Rico. Associate members shall devote all their working hours to serving on the Board. The term for each associate member shall be four years; provided, that the first appointments to be made under this Act are to be staggered, for a term of two (2), three (3), and four (4) years, respectively. Each member shall hold office until his/her successor is appointed and takes office. Any vacancy arising before the corresponding term is lapsed, shall be covered by appointing a new member for the part of the term yet to be lapsed. All agreements or decisions of the Governing Board shall be made official by the affirmative vote of the majority of its members.

B. The Governor shall designate one Board member to serve as the Chair, who shall hold office at the will of the Governor. The Chair, in turn, may designate one of the associate members of the Board to serve as the Vice Chair, who, during temporary absences of the Chair, may serve as Chair Pro Tem until the Chair returns to office or the vacancy is filled. In the event that vacancies or temporary absences arise in both offices simultaneously, the other associate member shall serve as Chair Pro Tem. The Chair and the associate members of the Environmental Quality Board shall earn the salary provided for under the law.

C. The Governor of Puerto Rico shall also appoint an alternate member for a four (4)-year term, to substitute associate members in cases such as vacancy, illness, leave with or without pay, vacation leave, temporary absences or inability of any such members, so that the latter discharge the functions or perform the tasks entrusted by the Chair as he/she may deem necessary in order to accomplish the purposes of this Act or that such member discharge any other functions entrusted to him/her under this or other laws.

Such alternate member shall earn, on account of per diems, the amount of seventy-five (75) dollars for each day he/she is discharging functions as an active member of the Board; provided, that when the appointment falls on an official or employee of the Government of Puerto Rico, such member shall earn no per diems whatsoever.

D. The Chair, as well as the other two Associate Members and the Alternate Member of the Board shall, as a result of their training and experience, be persons of renowned capability in environmental protection and conservation matters and shall have no conflicts of interests that might interfere with the discharge of their offices.

E. The present members of the Governing Board shall remain in office until the lapsing of their term as assigned pursuant to Act No. 9 of June 18, 1970, as amended, known as the “Environmental Public Policy Act.”

Section 8.—Duties of the Chair and the Governing Board.—

A. The Chair of the Governing Board of the Environmental Quality Board shall have, among other duties conferred by law, the following duties and powers:

1. Presiding over meetings of the Governing Board and enforcing the decisions approved by such Board.

2. Directing and supervising all Governing Board activities, and being able to delegate onto other associate members or onto the alternate member any functions or tasks as he/she may deem pertinent.

3. Being the Executive Director of the organization, and in such a capacity, he/she shall direct and supervise all administrative and technical activities of the Environmental Quality Board, and be able to delegate administrative functions provided for in this Act onto his/her subordinates and other associate members. Furthermore, in his/her capacity as Executive Director, he/she shall have the functions and duties provided for in Section 9(A) of this Act and any other functions and duties that the Governing Board may delegate or entrust onto him/her.

4. Creating the internal organization necessary for discharging the functions entrusted onto the Environmental Quality Board to serve the purposes of this Act and being able to appoint the officials and employees thereof, pursuant to Act No. 5 of October 14, 1975, as amended, known as the "Puerto Rico Public Service Personnel Act." He/She shall adopt rules for the organization and the internal procedures of the Environmental Quality Board. It is hereby expressly provided that the Chair shall create the Internal Audit Office of the Environmental Quality Board, which shall, at the very least, be attached to the Governing Board and be provided with full autonomy and authority to commence internal audits as it may deem necessary or convenient.

5. Acting as the official charged with administering any federal environmental program which, due its nature, purpose and scope, is related with the functions being entrusted onto the Board by law. In this capacity, he/she may enter into and handle any covenants or agreements as necessary to carry out the pertinent programs and efforts within the bounds of his/her functions and the laws of Puerto Rico.

6. Reporting, at least once a year, to the Legislature and the Governor on environmental status and conditions, pursuant to the provisions of Section 6 above.

7. Making and furnishing any studies and reports thereon, as well as recommendations on matters of policy and legislation as required by the Governor.

8. Charging the corresponding fees for copies of its publications or studies in order to recover the expenditures incurred on account of their printing and reproduction. The revenues thus obtained shall be covered into the Special Account Set For The Environmental Quality Board. However, in his/her discretion, he/she may distribute free copies of such publications to persons or entities as he/she may deem convenient.

9. Appointing examining officers to preside over public hearings, for whom he/she shall fix, if these are not employees of the Environmental Quality Board, the corresponding compensation.

10. Hiring the professional services of attorneys-at-law and experts so that they may advise or represent him/her in their respective concerns or legal affairs within their professional expertise, for whom he/she shall fix the corresponding compensation.

11. Hiring the services of highly specialized persons, including professional and counseling services, when necessary to accomplish the purposes of this Act.

12. Establishing and awarding, in coordination with the Commonwealth Personnel Office, scholarships to private individuals to pay for studies relative to natural resources and environmental conservation and solid waste disposal, which scholarships may cover any expenses as deemed necessary in the judgment of the Environmental Quality Board.

13. Requesting, accepting and obtaining the cooperation and the technical and financial assistance of Federal, Commonwealth or municipal agencies or private industries or entities, as provided for in the applicable legislation and regulations, in order to accomplish the purposes of this Act.

14. Requiring that any government body and the officials and employees thereof provide the necessary assistance to comply with the provisions of this Act and/or the regulations approved thereunder.

15. Being able to accept donations and to provide that fines and royalties are to be spent in conducting special studies pursuant to the provisions of this Act, and to use the assistance made available by other public and private agencies.

16. Being able to accept, receive, and administer donations or funds from public, semi-public or private entities or entities of the United States Government or any of its instrumentalities, and from the Puerto Rico Conservation Trust, with the objective of accomplishing the purposes of this Act.

17. Entering into covenants with any political subdivision, department, agency, authority, public corporation, educational institution or instrumentality of the Government of the Commonwealth of Puerto Rico or the United States of America or any private corporation or entity, with the purpose of obtaining or providing professional or any other services and of obtaining or providing facilities to accomplish the purposes of this Act. The covenants shall specify the services and facilities that are to be obtained or provided and the refund or payment for such services or facilities or whether such services are to be rendered gratis. Refunds or payments received on account of services or facilities thus provided shall be covered into the General Fund of the Commonwealth Treasury, except that in the case of public corporations, authorities or instrumentalities whose funds are not under the custody of the Secretary of the Treasury, such refunds or payments shall be covered into the funds of the entity that has provided such services or facilities. As to the Environmental Quality Board, such refunds or payments shall be covered into the Special Account Set For The Environmental Quality Board.

18. Preparing and developing projects and programs for the benefit of the environment, for the conservation of our environment and our natural resources, for addressing noise pollution, and for the proper disposal of solid waste pursuant to the provisions of Act No. 70 of June 23, 1978, known as the "Puerto Rico Solid Waste Authority Act," and Act No. 81 of August 30, 1991, known as the "Autonomous Municipalities Act of the Commonwealth of Puerto Rico of 1991."

19. Discharging any other functions and responsibilities delegated or entrusted onto the Chair by the Governor or by special laws.

B. Associate Members assembled into the Governing Board shall be responsible for discharging the following duties, powers, and functions:

1. Adopting rules for the internal proceedings and organization of the Governing Board.

2. Discharging the adjudicative functions delegated onto the Environmental Quality Board, and in such a capacity, they shall consider and resolve all cases or controversies relative to the application of this and any other laws and regulations administered by the Environmental Quality Board. The Board shall be empowered to adjudicate cases and controversies presented before such Board by private citizens or by officials of other agencies, departments, municipalities, public instrumentalities or corporations, concerning alleged violations of the laws and regulations administered thereby, on the grounds of evidence presented and admitted in the corresponding adjudicative hearing, and to impose fines as pertinent pursuant to the provisions of Section 16 of this Act.

3. Being able to designate administrative judges and delegating onto the latter their adjudicative powers; provided, that all requests for reconsideration of final determinations made by the latter shall be presented before the whole of the Governing Board and considered pursuant to the provisions of the Uniform Administrative Procedures and the regulations approved thereunder by the Board.

4. Discharging the rulemaking functions delegated onto the Environmental Quality Board.

5. Assisting and advising the Chair in the preparation of the report on environmental quality required under Section 6 of this Act.

6. Issuing, by request or *motu proprio*, official interpretations as to the scope and applicability of the laws administered by the Environmental Quality Board and the regulations adopted thereunder by the Board.

7. Discharging any additional powers and responsibilities delegated onto the Environmental Quality Board under Section 9(B) of this Act.

Section 9.—Powers and Duties.—

A. The Environmental Quality Board, under the authority conferred onto its Executive Director, shall have the following duties, powers, and functions:

1. Issuing administrative orders to require remuneration for the Environmental Quality Board or to bring any civil or administrative action against any person with the purpose of covering any expenditure incurred by the Environmental Quality Board or any other instrumentality of the Government of the Commonwealth of Puerto Rico for the removal, correction or termination of any adverse effect on the quality of the environment as a result of unauthorized pollutants being discharged, whether accidentally or not. Such orders shall apprise persons to whom these are addressed of their right to pay the amount of money claimed or to request the holding of an adjudicative hearing under the Uniform Administrative Procedures Act and the regulations approved thereunder by the Board.

2. Charging and collecting from owners or operators of atmospheric emission sources under the Air Operation Permit

Program, to be established by regulation, the annual fees to be charged when applying for permits or at any time as determined by the Environmental Quality Board, to cover the direct and indirect costs necessary for the development, oversight, and administration of the Program, including the sustenance of the Small Business Technical Assistance and Environmental Compliance Program developed by the Environmental Quality Board as required under Section 507 of Title V of the Clean Air Act, as amended. If the Board should not determine otherwise, such fees shall be raised each year, by using the Consumer Price Index (base year 1989) published by the U. S. Department of Labor pursuant to the procedures established by the U. S. Clean Air Act, as amended. The moneys thus received by the Environmental Quality Board shall be deposited into a special account denominated the Special Account Set For The Air Operation Permit Program, to be constituted as an account independent and separate from any other account, fund or resources of the Environmental Quality Board and the Commonwealth of Puerto Rico. Such funds may only be used for the Air Quality Program.

3. Requiring notice before commencing any construction, installation or establishment of sources which are potentially detrimental to the environment and the natural resources, as per the indications in the regulations issued under the provisions of this Act, and requiring within thirty days from having received such notice and as a condition prior to construction, the presentation of plans, specifications or any other information as it may deem necessary in order to determine whether the proposed construction, installation or establishment conforms to the provisions of this Act and the

regulations thereunder. If it should so deem pertinent, the Environmental Quality Board may require that an environmental impact statement be prepared and issued pursuant to the provisions of Section 4(B)(3) of this Act, or require that studies or research be conducted as may, in its judgment, be necessary, and that the corresponding reports and any other documents be presented.

4. Conducting research, studies, inspections, and analyses to verify compliance with the provisions of this Act and the regulations approved thereunder by the Governing Board of the Environmental Quality Board. These actions may be carried out by employees and programs of the Environmental Quality Board itself, or by any consultants and contractors of said public instrumentality, pursuant to the terms in their contracts, or by other employees or programs of any agencies, departments, municipalities, corporations or public instrumentalities, pursuant to the current interagency agreements between them and the Board on this matter.

5. Instituting and processing to their final resolution, any administrative or judicial actions against any natural or juridical person, whether public or private, for which such Board shall be represented by the attorneys of the Department of Justice, its own attorneys or such other attorneys it may contract for such purposes, in order to enforce the provisions of this Act and the regulations approved thereunder by the Board.

6. Establishing a program to conduct investigations against any natural or juridical person who violates the provisions of this Act and referring such cases, if deemed pertinent, to the Department of Justice. The Board may employ to such ends part of the funds covered

into the Special Account Set For The Environmental Quality Board on account of criminal sanctions imposed by the courts under the provisions of this Act, with the purpose of supplementing or complementing the efforts and resources of the Department of Justice.

7. Ordering persons causing or contributing to a condition which harms the environment and natural resources or which poses an imminent danger for the public health and safety, to immediately diminish or discontinue their actions. Such orders shall apprise the person so ordered of his/her right to request that an adjudicative hearing be held pursuant to the Uniform Administrative Procedures Act and the regulations approved thereunder by the Board.

8. Issuing orders to do or forbear or to cease and desist so as to take the preventive or control measures that, in its judgment, are necessary to achieve the purposes of this Act and the regulations promulgated thereunder. The natural or juridical person against whom such order is issued may request an administrative hearing to state the reasons for having such order modified or revoked and the reasons for which such order should not be put into effect. The final resolution or decision of the Governing Board of the Environmental Quality Board may be reconsidered and reviewed in the manner provided for in the Puerto Rico Uniform Administrative Procedures Act. The effects of such resolution or decision of the Board shall not be stayed, unless so ordered by the Circuit Court of Appeals of Puerto Rico or by the Governing Board itself, pursuant to the procedure prescribed in Section 21 of this Act and to the provisions of the "Puerto Rico Uniform Administrative Procedures Act."

9. Issuing provisional orders, with previous notice to the Planning Board and the Regulations and Permits Administration, to prohibit the construction of facilities whose plans and specifications show to be in violation of the provisions of this Act or its regulations.

10. The Environmental Quality Board, represented by its members, consultants, contractors, agents or employees, may enter and examine the establishment, equipment, facilities and documents of any person, entity, firm, or government agency or instrumentality under its jurisdiction with the purpose of investigating and/or inspecting environmental conditions.

If the owners, holders or their representatives, or official or office refuse to allow such entry and/or examination, the representative of the Board shall tender a sworn statement before any judge of first instance witnessing the intention of the Board and requesting permission to enter such land, body of water or property.

The Judge shall issue an order to authorize any Board representative to enter the lands, bodies of water or property described in the sworn statement and to direct that the original documents be filed with the Clerk of the Court, which documents shall be deemed to be public.

The Board representative shall show a copy of the sworn statement and the Order to the persons, if any, in front of the property.

11. Instituting, represented by the Secretary of Justice, the attorneys of the Board, or a private attorney contracted for that purpose, civil actions for damages in any court of Puerto Rico or the United States of America to recover the total value of the damages inflicted on the environment and/or the natural resources by the

commission of any violation of the provisions of this Act or its regulations. The sum of the sentence collected on such grounds shall be deposited into the Special Account Set For The Environmental Quality Board.

12. Resorting to the courts of Puerto Rico or the United States of America, represented by the Secretary of Justice, the attorneys of the Board or a private attorney contracted for such purpose, in order to request the enforcement of any resolution or decision issued by the Governing Board of the Environmental Quality Board or any order issued by the Environmental Quality Board requiring immediate action to respond to an environmental emergency, and any remedy requested by the Board, through any civil action.

B. Under the authority conferred onto its Governing Board and pursuant to the requisites, guidelines, norms and instructions thereof and the provisions of Section 8(B) of this Act, the Environmental Quality Board shall have the following additional duties, authorities, and functions:

1. Environmental Planning and Development of Public Policy.—

a) To develop and recommend to the Governor that public policy which encourages and promotes the betterment of environmental quality in order to meet the conservation, social, economic, health, and other requirements and goals of the Commonwealth.

b) To review and assess the various programs and activities of the Government in light of the policy established under Title I of this Act, with the purpose of determining the

extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the Governor on such matter.

c) To establish an administrative mechanism whereby the Environmental Quality Board coordinates with the Department of Health, the Solid Waste Authority, the Department of Natural and Environmental Resources, the Commonwealth Emergency Management Agency, and all other agencies concerned, for the implementation of the provisions of this Act and its regulations and in order to resolve any conflicts as to jurisdiction or competence resulting from the transfer of authorities and powers to the Board by this Act, as well as any others whose resolution is necessary to achieve the objectives of this Act and to prevent the duplication of government efforts and improve efficiency in services rendered to citizens and the protection of the environment.

d) To compile timely and authoritative information on the conditions and trends in the quality of the environment, both current and prospective, to analyze and interpret such information in order to determine whether such conditions and trends are interfering or could possibly interfere with the accomplishment of the policy set forth in Title I of this Act, and to compile and submit to the Governor such studies relative to such conditions and trends.

e) To conduct research, studies, inspections and analyses relative to the ecological system and the quality of the environment.

f) The Board may direct the persons and entities under its jurisdiction to pay expenses and fees for professional and consultatory services incurred on account of research or any other procedure carried out in relation to such persons or entities. The Board shall determine the manner and the time in which such payments are to be made, with the previous approval of the invoices presented by the persons rendering their services, and these amounts paid shall be covered into the Special Account Set For The Board. The Board may charge and direct that any person and/or public or private institution compensate the Board for costs incurred regarding any research, action or tracking or monitoring, issue or remission of permits, and mathematical modeling required by Commonwealth or Federal environmental regulations.

g) The Board may require all persons or entities under its jurisdiction to file before the Board such reports as required for the implementation of the provisions of this Act.

h) To document and define changes in the natural environment, including plant and animal systems, and garner the necessary information as well as any other information necessary or convenient for an ongoing analysis of these changes or trends and an interpretation of its root causes.

i) To take all proper measures to prevent any harm to the environment and the natural resources considered by the Board to constitute irreparable damages or which contravenes the public interest.

j) To discharge necessary and reasonable functions as to the planning and development of the public policy concerning the problems posed by solid waste in Puerto Rico.

k) To determine and classify through regulations such natural resources or areas that, in its judgment, warrant special protection, and to establish and fix through regulations promulgated to that effect, the protections, conditions and requirements that guarantee the protection of such natural resources or areas.

2. Environmental Education and Public Involvement.—

a) To develop an environmental education and public involvement program to promote the achievement of the objectives of the environmental public policy of Puerto Rico and which inures to the benefit of the citizens at large. The involvement of the Department of Education, universities and academic institutions, and any other pertinent public and private organizations in these efforts shall be promoted.

3. Regulations and Permit System.—

a) To adopt, promulgate, amend, and repeal regulations to implement the provisions of subsections (B)(2) and (B)(3) of Section 4 of this Act. Such regulations shall include, among others, such provisions to recover from the proposing party, the costs actually incurred in the process of electronically posting the disclosure of environmental impact statements, and to prevent unnecessary delays or conflicts between agencies, in order to determine which agencies shall act as proponents or consultants and which agencies shall act as

advisors or commentators on a case-by-case basis. Any conflict or controversy between agencies regarding the application of Section 4 of this Act shall be resolved or adjudicated on a case-by-case basis by the Governing Board of the Environmental Quality Board.

b) To adopt, promulgate, amend, and repeal regulations to establish a mechanism destined for the quality control of the data generated during the sampling and analysis of standards indicative of the existing quality of the environment or generated by a pollutant source that should be subjected to compliance with the norms and requirements of the applicable environmental regulations, including, but not limited to:

1) Establishing a procedure geared toward the certification and accreditation of such individuals, corporations or public or private institutions that generate data on the quality of the environment in compliance with environmental regulations.

2) Keeping a register of individuals, corporations or public or private institutions that generate data on the quality of the environment and the waste generated by pollutant sources, in order to guarantee the reliability of such data so as to expedite the data validation procedure before the consideration of the Board.

c) To classify through regulations, the sources that in its judgment are adversely affecting the environment and the

natural resources, and to require reports on each of these sources.

d) To determine, through studies and samplings, the degree of purity of waters and the air, and to establish the corresponding norms in coordination with the agencies concerned.

e) To adopt rules and regulations to establish a permit-awarding and licensing mechanism that regulates the control of the pollution in the air and water and by solid waste and noise. In each case in which the issue or renewal of a permit, certification, license or similar authorization is applied for, the Board shall take into account the history of compliance of the applicant, from five years preceding the date of such application, in order to exercise its administrative discretion to deny, suspend, modify or revoke a permit with the purpose of protecting the environment and conserving the natural resources as the circumstances may require. The Board shall also take into account any other relevant factors and any evidence presented by the applicant or holder of a permit or a similar authorization to support such application, and the importance or relevance that such compliance history shall be accorded.

4. Solid Waste Management, Transportation and Disposal.—

a) To adopt, promulgate, amend and repeal rules and regulations for solid waste disposal and establish the sites and methods to dispose of such solid waste.

5. Control of Emissions into Atmosphere.—

a) Establish through regulations such requirements as necessary in its judgment to control emissions into the atmosphere and to prevent, diminish or control global warming and damages to the environment and the natural resources.

6. Noise Control.—

a) To establish environmental quality and purity standards, as deemed convenient, and to adopt rules and regulations as necessary and reasonable for the control, diminution or elimination of noise harmful to the public health and welfare. Provided, that when adopting rules and regulations on noise and the determination of their harmfulness to the public health and welfare, it shall take into account the exercise of constitutional rights, such as: freedom to worship, freedom of expression, freedom of association, and the right to privacy. The best balance of interests as per the cultural traditions, values and patterns of the People of Puerto Rico is thus guaranteed.

b) The Environmental Quality Board shall have exclusive first-instance jurisdiction to elucidate all matters relative to cases involving noise generated by churches, temples, preaching sites, missions and other places devoted to public worship, excluding any other administrative or judicial forum. Any lawsuit filed with a court of justice in the civil or the criminal venue involving a case of noise generated at the institutions listed above shall be transferred to the Environmental Quality Board for the elucidation and

adjudication thereof, without impairment of the use of other recourses established by law.

c) Elimination of Noise Propagated Within Waters.—

1) The Environmental Quality Board shall comply with the following:

a – Requiring the elimination of noise propagated within the waters of Puerto Rico which under this subsection (B)(6)(c) are deemed to be potentially harmful to the public health or the public welfare or to both;

b – Preserving the waters of Puerto Rico for fishing, tourism and recreational and commercial activities, all of which are important for the welfare of the residents of the Commonwealth of Puerto Rico;

c – Eliminating noise pollution determined under this clause to be harmful to the health and welfare of the residents of the Commonwealth of Puerto Rico, while striving to preserve fishing, tourism, and recreational and commercial activities that are important for the welfare of the residents of the Commonwealth of Puerto Rico;

d – Issuing stringent prohibitions on all sources of activity that produce a maximum sound pressure level equal to or greater than 190 dB re 1 μ –Pa in the water, measured at any point within the

waters of Puerto Rico, except in “excluded commercial navigation routes,” as these are defined in subsection (B)(6)(c)(2) of this Section, pursuant to the terms of this subsection (B)(6)(c);

e – Providing the terms for measuring the levels of sound pressure in the waters of Puerto Rico; and

f – Providing the means to guarantee compliance with and implementation of the provisions of this clause.

2) For purposes of the provisions of this subsection (B)(6)(c), the terms set forth below shall have the following meaning:

a – Decibel (dB).—A unit used to measure the magnitude of sound, equal to ten times the base-10 logarithm of the ratio between the square of the acoustic pressure divided by the square of the reference pressure, which is 1μ Pa in the water.

b – Department.—The Department of Justice of the Commonwealth of Puerto Rico.

c – Emission.—Propagation of noise into the atmosphere or the sea from any source.

d – Emission Source.—Any object, device or other sources that generate sound waves.

e – Frequency.—Number of repetitions per time unit of a complete wave, expressed in

Hertz (Hz), whereby 1 Hz equals one cycle per second.

f – Marine League.—A unit equal to three (3) nautical miles, whereby one nautical mile equals 1,852 meters, or approximately 6,076 feet.

g – Noise.—Any sound that disturbs or causes a physical or psychological disorder to human beings and marine wildlife.

h – Noise Pollution.—Any sound emission that propagates at a maximum sound pressure level equal to or greater than 190 dB re 1 μ -Pa in the water, at any point within such waters of Puerto Rico.

i – Noise Prohibition Pursuant to this Subsection (B)(6)(c).—The prohibition established in subsections (B)(6)(c)(1) and (B)(6)(c)(3) of this Section, and any prohibition or requirement set forth by any other statute, including, but not limited to, the United States Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), inasmuch as a violation of subsections (B)(6)(c)(1) and (B)(6)(c)(3) also constitutes a violation of such prohibition or requirement in another statute.

j – Person.—Any natural or juridical person or group of persons, whether private or public, including, but not limited to, any department, instrumentality or public corporation

of the Commonwealth of Puerto Rico and its municipalities, and any department, agency or public corporation of the government of the United States.

k – Sound.—An oscillatory phenomenon whereby matter is made to vibrate so that its pressure and all other characteristics are altered. The description of this phenomenon includes features such as period, amplitude, frequency, maximum pressure level, and particle speed.

l – Sound Deflecting Material, Instrument or Method.—Any object or process, other than environmental air or the natural environment, which might interfere with or alter or mitigate the sound pressure level generated by an emission source.

m – Maximum Sound Pressure Level.—The maximum sound pressure level equals $10 \text{ Log } (P_{\text{peak}})^2 / (P_{\text{ref}})^2$.

n – Sound Generation Site.—Facility, place, site or grounds where an acoustic wave is originated. The sound generation site comprises all individual sources of sound, such as the fixed, mobile or portable kind, located within the bounds of such property.

o – Waters of Puerto Rico.—All navigable bodies of water and the land lying

thereunder within and around the Island of Puerto Rico and adjacent islands, as well as the waters that have been placed under the control of the Commonwealth of Puerto Rico that extend from the coast of the islands of Puerto Rico and adjacent islands to the seaward as per past or present modifications, be it due to accumulation, erosion or water drawback, up to a distance of three marine leagues.

p – Excluded Commercial Navigation Routes.—Any portion of the waters of Puerto Rico, when such portion is used by a container ship, a tanker, or other commercial cargo vessel, or a tourist ship, or a ship of the Navy of the United States of America, or any other vessel in transit through the waters of Puerto Rico, with the sole purpose of faring such waters of Puerto Rico, and not for any other additional purpose or purposes, such as engaging in war games, weapon testing or seismic explorations and research, which result in the emission of sound, whether by air or by water, that at one point, for any duration and in any frequency or frequency scale, becomes propagated to the waters of Puerto Rico at a maximum sound pressure level equal to or greater than 190 dB re 1μ -Pa, measured at any point within such waters of Puerto Rico.

3) No person shall cause or allow the emission of a sound into the air or the water which, at any point, for any duration and in any frequency or frequency scale becomes propagated to the waters of Puerto Rico, if other than by virtue of the “excluded commercial navigation routes,” as defined in subsection (B)(6)(c)(2) of this Section, at a maximum sound pressure level equal to or over 190 dB re 1μ -Pa, as measured at any point within such waters of Puerto Rico.

4) The Department is hereby authorized to institute judicial proceedings in any court of the Commonwealth of Puerto Rico or in any Federal court to seek remedy against a person who violates or is about to violate the noise prohibition established pursuant to this subsection (B)(6)(c). The Department is not bound to await any action by the Board before instituting any judicial proceeding against any person.

5) Upon showing that it is likely for any person to violate the noise prohibition under this subsection (B)(6)(c), the court shall order an preliminary injunction to prohibit any violation of such noise prohibition.

6) Upon proving that any person has violated or will violate the noise prohibition under this subsection (B)(6)(c), the court shall order a permanent injunction to prohibit any violation of any noise prohibition under this subsection (B)(6)(c).

7) Any person may apply for an exemption from the prohibition under this subsection (B)(6)(c) to the Board. The Environmental Quality Board may grant an exemption only if it should determine that, at the time of presenting an application, such applicant: (1) is complying with the provisions of this Act and continues to comply therewith while the exemption application procedure is pending; and (2) the applicant has shown through valid, convincing and clear scientific evidence that the exemption on the prohibition shall not cause any harm whatsoever to human or animal life. The determination of the Board concerning exemption applications shall be made after holding an evidentiary hearing of the whole that provides the applicant and any other parties interested with the opportunity to present proof. No exemption shall be granted to any person who violates the noise prohibition under this subsection (B)(6)(c) while applying for such exemption to the Board.

8) When applying to the Board for an exemption on the provisions of this subsection (B)(6)(c), the Board shall personally notify the Secretary of Natural and Environmental Resources, the Secretary of Justice, the Mayors and the Municipal Assemblies of the Municipality where the sound generation sites or the emission sources are located and where any of the effects caused by such sources are present. A notice shall be

published in two newspapers of general circulation in the Island for a period of three days. All these officers, as well as any parties interested who so request, shall be entitled to participate in the evidentiary hearings as parties to the process.

9) Any person entitled to apply for an exemption to the Board may also apply to the Board for a emergency suspension of the prohibition that this subsection (B)(6)(c) imposes during the exemption application procedures. The Board shall resolve said application within thirty (30) days. The applicant and all persons interested shall be entitled to appear and to present evidence and arguments. The Board may grant an emergency suspension only if the applicant: (1) shows by valid, clear and convincing scientific evidence that the suspension of the prohibition shall not inflict any harm on human or animal life during the entire exemption application procedure, and (2) establishes that the applicant shall be caused irreparable damage if the prohibition is kept in effect while the exemption application procedure is pending.

10) In the event that the Board receives an application for exemption or emergency suspension before the Board promulgates regulations to implement the provisions of this subsection, the Board shall hear and decide the application pursuant to the standards set forth in this subsection (B)(6)(c), as reasonably

interpreted by the Board.

11) Authorized Board representatives may request a court order authorizing them to enter and investigate any sound generating site or emission source under the jurisdiction of the Board with the purpose of: (1) investigating and verifying compliance with the provisions of this subsection (B)(6)(c); (2) taking any measurements of the maximum sound pressure level as the Board may deem necessary to enforce compliance with this subsection (B)(6)(c); or (3) having access to the Title Deeds or documents relative to any issue under investigation.

12) The Board shall be entitled to require that the owner, custodian or operator, or any other party with control over any sound generating site or sound emission source that propagates sound within the waters of Puerto Rico, establish and keep any records and prepare any reports as the Board may demand in the reasonable discharge of its responsibility of enforcing this subsection (B)(6)(c).

13) The Board may require that the owner, custodian, operator or any other party with control over a sound generating site or sound emission source measure the maximum pressure level of the sound being propagated by the sound generating site or the sound emission sources toward the navigable waters within and around the island of Puerto Rico and adjacent islands.

14) Any measurement under the provisions of this subsection (B)(6)(c) shall be taken: (1) directly under and in front of the sound emission source, but in no case shall the maximum sound pressure level be measured at a distance greater than six (6) meters in front of the source, and in no case shall the maximum sound pressure level be measured at any distance beside or behind such source; (2) by a single hydrophone (reference 1μ -Pa) on the water surface or just below the sea surface, but in no case shall the measurement be taken at a depth greater than one meter below the sea surface.

15) This Act strictly prohibits the use or presence of any sound deflecting material, instrument or method in or around the sound generating site or emission sources or between the sound generating site or the emission source and the gauging instrument, that is not present at the time the sound pressure level is measured in each instance in which any sound is generated at such site or source.

16) The Board may require that any sound generating site or any sound emission source install, operate and maintain accurately calibrated monitoring equipment in proper working order, and prepare and remit to the Board periodical reports on the maximum sound pressure level measurements taken and on such equipment accuracy tests as the Board may determine to be appropriate and satisfactory.

17) No permit whatsoever shall be required under this subsection (B)(6)(c) for sound emissions not in violation of the noise prohibition established thereunder.

18) The Board is hereby authorized to adopt regulations to implement the provisions of this subsection (B)(6)(c) pursuant to Act No. 170 of August 8 12[sic], 1988, as amended, known as the “Uniform Administrative Procedures Act.”

19) Any final determination of the Board under this subsection (B)(6)(c) or any rule or regulation issued thereunder may be subject to reconsideration and review pursuant to the provisions of Act No. 170 of August 8, 1988, as amended, known as the “Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico.”

20) By request of the Department, the Board shall provide the Department with any information compiled by the Board pursuant to this subsection (B)(6)(c). The Board shall promptly inform the Department if the Board should be apprised of any violation of the noise prohibition under this subsection (B)(6)(c) or if any person should refuse to allow an inspection or to furnish the information requested by the Board pursuant to this subsection (B)(6)(c).

21) The Board may issue an infringement notice or a summons and a cease and desist order insofar as it determines that any person is not complying with some

of the requirements of this subsection (B)(6)(c) or with any regulation adopted by the Board to implement the requirements of this Section. The Board shall establish by regulation the procedure to be followed to issue infringement notices, summonses and cease and desist orders.

22) The Board is hereby authorized to impose monetary sanctions against any person who does not obey any cease and desist order issued by the Board under this subsection (B)(6)(c). For the first offense, the board may impose a sanction in the amount of two hundred fifty thousand (250,000) up to twenty-five million (25,000,000) dollars. For the second or subsequent offenses, the Board shall be authorized to impose a sanction in the amount of two hundred fifty thousand (250,000) up to fifty million (50,000,000) dollars. The Board shall establish by regulation the procedure to be followed when imposing such sanctions.

23) The Board may institute a judicial proceeding in any court of the Commonwealth of Puerto Rico or any Federal court to: (1) obtain a court order to compel any person to comply with any of the requirements of this Section or any of the regulations adopted by the Board pursuant to this Section, and (2) collect any monetary sanction imposed by the Board pursuant to this subsection.

24) If the owners, custodians or operators, or any other parties with control over any sound generating site or any sound emission source, or their representatives or officers in charge should refuse to allow the inspection or to furnish the information requested by the Board under this subsection (B)(6)(c), the Department and the Board shall be entitled to presume that such sound generating site or sound emission source violates the noise prohibition under this subsection (B)(6)(c) in any court proceeding instituted by the Department. Such presumption shall be rebuttable only with clear and convincing evidence as to the fact that the sound generating site or sound emission source does not generate noise in violation of the noise prohibition under this subsection (B)(6)(c).

d) Noise Awareness Day.—

1) It is hereby provided that the last Wednesday of the month of April of each year shall be observed throughout the Commonwealth of Puerto Rico as the “Noise Awareness Day in the Commonwealth of Puerto Rico.”

2) The Governor of the Commonwealth of Puerto Rico shall enforce compliance with the purposes of the day thus observed. Likewise, through a proclamation to that effect, he/she shall urge all Puerto Rican people to conduct activities on such date that are conducive to the celebration and the education of citizens

about the purpose and importance of the works carried out on such date.

7. Controlling Pollutant Discharges Into Bodies of Water.—

a) To adopt regulations, issue permits and pronounce orders restricting the contents of any waste material(s) or pollutant(s) discharged or intended for discharge into the waters of Puerto Rico and to establish and implement regulations for the pre-treatment of sewage waters and for the control of dispersed pollution sources. To that effect, the Board shall be empowered to exercise, among others, such powers and authorities as may be delegated thereto and as may be necessary:

1) Including, but not limited to, the implementation of the National Pollutant Discharge Elimination System, while observing the provisions of the Federal Clean Water Act, as amended.

b) To prohibit any discharge of pollutants by any natural or juridical persons, groups organized under a corporate name, public corporations, including municipalities, agencies, instrumentalities of the Government of Puerto Rico and the Government of the United States of America, that do not have the corresponding permit issued by the Board.

c) The permit system shall include, but not be limited to, the following points:

1) Establishing limitations and standards for effluents;

- 2) Establishing efficiency standards for new sources;
 - 3) Establishing prohibitions and standards for effluents;
 - 4) Pre-treatment standards;
 - 5) Toxic substance standards;
 - 6) General procedures and conditions for the issue, review, modification, revocation and suspension of the corresponding permit.
8. Underground Injection Control.—
- a) To adopt, promulgate, amend and repeal regulations for a program intended for the control of the underground injection of fluids, including, but not limited to:
 - 1) Prohibiting any underground injection by any natural or juridical persons, groups organized under a corporate name, public corporations, including Municipalities, Agencies, Instrumentalities of the Government of the Commonwealth of Puerto Rico and the United States of America, that do not have the corresponding permit issued by the Board, except when so authorized by regulation. These permits shall require the previous endorsement of the Department of Natural Resources in those cases thus provided through the Regulation for Subsoil Injection Control.
 - 2) Underground injection carried out by Federal or Commonwealth agencies or by any person into Federal Government property or facilities in Puerto

Rico.

3) Requiring that the applicant for such permit show to the satisfaction of the Board that underground injection shall not jeopardize water sources, regardless of whether injection is authorized by permit or regulation.

4) Requirements for the inspection, monitoring, record keeping and reports.

5) General procedures and conditions for the issue, review, modification, revocation and suspension of the corresponding permit.

9. Hazardous Solid Waste Management, Transportation and Disposal.—

a) To adopt rules and regulations and pronounce orders establishing the appropriate norms for recovery, use, storage, recollection, separation, compacting, and processing, and to establish the adequate management for the final and safe disposal of hazardous waste, including, but not limited to:

1) Requiring that owners and operators of any hazardous waste treatment, storage, transportation and/or disposal facilities obtain the corresponding permit issued by the Board, pursuant to the purposes of this Act and the regulations promulgated thereunder.

2) Standards for hazardous waste generators and transporters and for owners and operators of facilities wherein hazardous waste is treated, stored, disposed of or managed, so as to protect human health and the environment, including standards for a manifest system

to track hazardous waste and claim financial liability.

3) General procedures and conditions for the issue, review, modification, revocation and suspension of the corresponding permit.

b) To adopt rules and regulations to establish a register, permit and licensing mechanism for the installation and operation of plants or systems for solid waste recovery, processing and final disposal. The plans to build these plants or systems shall be submitted to the Board for its approval, without impairing the obligation of applicants to comply with the provisions of all other applicable laws. The Environmental Quality Board may issue orders as it may deem necessary to ensure that the operation of these plants or systems does not inflict any harm upon the environment.

10. Lead Paint Removal Control and Management Program.—

a) To adopt, promulgate, amend and repeal regulations as necessary to establish a mechanism conducive to the certification and licensing of individuals involved in lead paint removal, including, but not limited to individuals who:

1) Inspect and determine the presence of lead in paint;

2) Assess the risk that lead paint poses for those inhabiting the structure;

3) Plan and prepare designs for lead paint removal projects;

4) Carry out or supervise lead paint removal

works.

b) To adopt, promulgate, amend and repeal regulations to establish a mechanism for the accreditation of public or private institutions that intend to train personnel involved in lead paint removal through courses or any other educational activity of a similar nature. These institutions shall also be authorized by the Commonwealth agencies and bodies responsible for the accreditation of academic programs.

c) To adopt, promulgate, amend and repeal regulations as necessary to issue the permits to be obtained before starting any lead paint removal activity.

d) To adopt, promulgate, amend and repeal regulations as necessary for the disposal of waste generated by lead paint removal activities.

11. Property Redevelopment and Voluntary Cleanup Program.—

a) To establish the Property Redevelopment and Voluntary Cleanup Program with the purpose of promoting and incentivizing the redevelopment and cleanup of abandoned, vacant and/or underused or idled properties that pose or could pose environmental pollution risks, in order to promptly restore them to productive and beneficial use.

b) The Board may adopt, promulgate, amend and/or repeal rules, regulations, procedures, guidelines, provisions, and standards to effectively administer, promote and implement the Program. The Board shall have the authority and discretion to set and issue the scope, terms, criteria, prohibitions, procedures,

limits and/or parameters as reasonable and practical for the eligibility of properties under the Program, the preparation of environmental assessments for properties, the voluntary cleanup standards, environmental liability releases, and any other agreement(s), letter(s), order(s), certificate(s) or special document(s) whose issue it may, in its discretion, deem pertinent, depending on the case or project before its consideration.

c) The Board shall have the authority to enter into any kind of agreement(s), covenant(s) and/or memorandum(s) of understanding as it may deem pertinent with the United States Environmental Protection Agency with the purpose of obtaining additional authorities, clarifying responsibilities, offering greater incentives and protections, and clarifying any other terms and conditions germane to the Program.

d) The Board shall have the authority to conduct internally or to outsource for the preparation of studies and evaluations as necessary to determine the viability and progress of the Program and to identify new strategies in order for the Program to keep abreast of national programmatic changes that might occur in the future. The Board may establish and direct a Steering Committee composed, as it may deem pertinent, of representatives from agencies, departments and/or public corporations of the Commonwealth of Puerto Rico, municipalities, the industrial sector, the business sector, and the community, with the purpose of identifying additional incentives, initiatives and needs, creating a potential property

inventory for the Program, and implementing any other initiative as it may deem pertinent for the benefit of the Program.

e) To establish, charge and/or collect such fee(s) as the Board may deem reasonable, to all petitioners who wish to inquire into their eligibility for the Program and/or apply for coverage under the Program, to cover the direct and indirect costs necessary to develop, administer, and oversee such Program. The Board shall have the authority and the discretion to establish how frequently the fee(s) are to be increased and the amount of the increase. The moneys thus received by the Board shall be deposited into an account denominated Special Account Set For The Property Redevelopment and Voluntary Cleanup Program, which is to be constituted as an account independent and separate from any other account, fund or resource of the Environmental Quality Board and the Commonwealth of Puerto Rico. Such funds may be used solely on the Property Redevelopment and Voluntary Cleanup Program.

f) The creation or establishment of this Program by no means limits or curtails any authorities, powers and duties conferred to the Board under the provisions of this Act.

12. Opacity Reader Certification Program.—

a) To adopt, promulgate, amend and repeal regulations as necessary to establish a mechanism conducive to the certification for individuals who visually determine the opacity of emissions generated by stationary sources, which

results are to be submitted or used in compliance with environmental regulations, its norms, requirements and permits issued thereunder, including, but not limited to:

1) Adopting by regulation, the methods to be used to visually determine the opacity of emissions generated by stationary sources;

2) Establishing a register for individuals certified to conduct the visual determination of the opacity of emissions generated by stationary sources which are to be used or submitted in compliance with environmental regulations and the permits issued thereunder;

3) Adopting regulations to accept by reciprocity, individuals certified by other jurisdictions or Federal agencies who use methods similar to those used in Puerto Rico, so that they may be certified without the training requirements;

4) Establishing the minimal requirements necessary to be able to be certified as an opacity reader, including training and tests;

5) Establishing technical requirements for the recognition of opacity reader schools, one of which may be attached to the Environmental Quality Board, which shall be in charge of the technical training necessary to be able to opt for the opacity reader certification, the regulations of which shall conform to the provisions of Act No. 170 of August 12, 1988, as amended, known as

the “Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico”;

6) Charging for services rendered in training individuals who aspire to become certified Opacity Readers and in certifying such individuals;

7) Using the resources and facilities of the Environmental Quality Board to carry out the purposes of this Program; and

8) Any provisions to be approved must conform to the “Federal Clean Air Act of 1990” (Public Law No. 101-549 of November 15, 1990. 42 U.S.C. §§7401 et seq.).

13. Air Operation Permit Program under Title V of the “Federal Clean Air Act”.—

a) The Board may adopt regulations in order to establish the Air Operation Permit Program under Title V of the “Federal Clean Air Act,” as amended, hereinafter denominated the “Program,” to require and grant air operation permits to owners or operators of regulated atmospheric pollutant sources which require permits under Title V of the “Federal Clean Air Act of 1990,” as amended, as well as hazardous atmospheric pollutant sources and solid waste incinerators. Likewise, the Board may issue orders against the owners or operators of affected sources to enforce compliance with such permits. To that effect, the Board shall be empowered to and must:

1) Require that atmospheric pollutant sources under the Program comply with requirements such as

monitoring, record keeping, reporting and other compliant certification requisites.

2) Establish effectible requirements as to periodical sampling or testing and incorporate these into permits.

3) Include in permits, any applicable Commonwealth or Federal provision in addition to the provisions set forth under the Commonwealth Implementation Plan and those of the Federal Implementation Plan, if applicable.

4) Include a severability clause in permits.

5) Include in permits, alternate operating scenarios.

6) Allow changes within a source authorized to operate under the Program with no need for said changes to require a permit review, if such changes are not modifications under Title I of the "Clean Air Act," are not in contravention of Title V of such Federal Act and do not exceed the emissions allowed under the permit, and the facility gives written notice to the Administrator of the United States Environmental Protection Agency and the Environmental Quality Board seven (7) days before implementing such changes. The Environmental Quality Board may require that said notice be given within a shorter term in emergency cases.

7) Allow the exchange of emission increases and decreases between units within the same permit-

holding facility, as well as other similar changes or programs without these requiring either a permit review or an environmental impact statement under the applicable regulatory provisions and the emission exchange policy authorized by the “Federal Clean Air Act,” as amended, and the Environmental Quality Board, insofar as such change is contemplated under the facility’s permit and does not represent a net emission increase. Implement market incentive programs directed to having the net effect of reducing the atmospheric pollution produced by each regulated pollutant, pursuant to the provisions of the “Federal Clean Air Act,” as amended, and the regulations thereunder.

8) Coordinate operation permit applications with pre-construction permits, pursuant to any timetable authorized in the Federal regulations.

9) Grant general permits pursuant to the requirements and regulations of both the “Federal Clean Air Act,” as amended, and those imposed by the Environmental Quality Board.

10) Exempt emission units that represent insignificant activities or emissions pursuant to the requirements and regulations of both the “Federal Clean Air Act,” as amended, and those imposed by the Environmental Quality Board.

11) Establish procedures in order for permit applications to comply with the Federal provisions

codified in Part 70 of Title 40 of the Code of Federal Regulations and the regulations of the Environmental Quality Board.

12) Establish administrative procedures and deadlines for granting initial operation permits and permit renewals, modifications and reopenings. The Environmental Quality Board shall make a final decision each year concerning each third of all completed initial applications filed within a period not to exceed three (3) years after the program has entered into effect.

a – After issuing a final decision regarding all completed initial applications, the Environmental Quality Board shall have eighteen (18) months from the date the completed application was filed, to issue its final decision, and in the case of minor modifications, the Board shall have ninety (90) days to issue its final decision regarding the permit.

b – If the Environmental Quality Board were not to act within the aforementioned terms, such inaction shall be deemed to be a denial, subject to the applicable judicial review and reconsideration procedures.

13) Adopt adequate procedures to evaluate permit reviews and modifications.

14) Require that the owners or operators of atmospheric pollutant sources under the Program submit

permit applications within twelve (12) months following the date the affected source was included in the Program, if the Board certifies that a permit application is complete and has been filed on time, such permit shall provide the owners or operators of emission sources with protection against possible legal actions for noncompliance with the Federal and Commonwealth provisions that require a permit to be obtained before operating an emission source. The protection accorded by the application shall not extend to the protection set forth in paragraph 15.

15) By petition of the applicant and in the discretion of the Board, operation permits shall include a protective clause, which shall establish that compliance with the permit's terms and conditions—except those for which the protective clause is expressly prohibited under Title V of the “Federal Clean Air Act,” as amended—constitutes compliance with the applicable requirements identified and included in the permit and those which the Board may determine not to apply to the source.

16) Require that the owners or operators of sources under the Program file an application for permit renewal. A renewal application that is complete and filed on time shall provide the owners or operators of permit-holding sources with protection against possible legal actions for noncompliance with the Federal and Commonwealth provisions that require a permit to be obtained before operating an emission source.

17) Issue operation permits to emission sources covered under the Program for a period not to exceed five (5) years, except for solid waste incinerators that burn municipal waste, for which the permit shall be issued for a period not to exceed twelve (12) years, and the same shall be reviewed every five (5) years as of their date of initial issue or subsequent issue.

18) Reopen and review to incorporate any applicable Federal and Commonwealth requirement, permits approved after the adoption of such Federal and Commonwealth requirement for sources under Title V of the “Federal Clean Air Act,” as amended, holding permits with a remaining effective term of three (3) years or more.

19) Require that the owners or operators of sources under the Program submit compliance plans and establish compliance plans for sources that submit inadequate plans.

20) Require that the owners or operators of sources under the Program submit compliance timetables and certifications, when applicable.

21) Terminate, modify, revoke and issue operation permits, when there is cause.

22) Provide public notice and the opportunity for comments and public hearings concerning permit and permit renewal applications from emission sources established under the Program consistent with Act No.

170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico” and with United States Environmental Protection Agency regulations.

23) Make available to the public, the air operation permit applications, the compliance plans, sampling or compliance reports and permits, subject to the confidentiality provisions in Act No. 170 of August 12, 1988, as amended, and in Section 114(c) of the “Federal Clean Air Act,” as amended.

24) Have available the Board reconsideration and judicial review procedures for any party legitimized to request the review of a final decision by the Board, in connection with an air operation permit under Title V of the “Federal Clean Air Act,” as amended, as the former are set forth in this Act and in Act No. 170 of August 12, 1988, as amended. Judicial review after a final action by the Board and the exhaustion of all administrative remedies shall be the only legal means whereby to contest the validity of an operation permit under Title V of the “Federal Clean Air Act,” as amended. Only those questions of fact or of law raised during the opportunity for comments or the public hearings may be contestable in Court. No collateral contention concerning a final operation permit shall be allowed unless such request for reconsideration or judicial review is based on new facts or changes in the

legal and/or administrative system that may arise after the review period.

25) Abstain from issuing a permit if the United States Environmental Protection Agency objects the issue thereof in writing within the period established therefor. The Board may revoke a permit previously granted under the Program if the United States Environmental Protection Agency presents its objection in writing within the period established therefor.

26) Inspect sources with operation permits in order to ensure compliance with any requirement established under the Program.

27) Compel compliance with the conditions of a permit after its term has lapsed or after its expiration.

14. Puerto Rico Environmental Research Laboratory.—

a) The Puerto Rico Environmental Research Laboratory is hereby created, to be attached to the Environmental Quality Board. The Laboratory may be located in any municipality of Puerto Rico and have one or more research centers within the jurisdiction of the Commonwealth of Puerto Rico or in other jurisdictions within the Caribbean Region if convenient for the purposes for which the Laboratory is created.

b) The Laboratory shall have, without it being construed as a limitation, the following objectives:

1) To offer scientific and laboratory support to the Environmental Quality Board, the Department of

Natural and Environmental Resources, and other government agencies, for the discharge of their duties and functions;

2) To conduct all such tests and analyses as necessary to determine soil status and the quality of water, air and of biological, chemical or physical components of any natural resource or system as may be required as part of the procedures for granting, modifying, suspending, revoking or overseeing any permit, license or any other kind of authorization from the Environmental Quality Board;

3) To conduct tests and analyses as necessary to oversee compliance with the laws, regulations and orders that regulate the quality of water, air and land resources in Puerto Rico;

4) To conduct scientific research in connection with the natural and environmental resources present in Puerto Rico, and to disclose the findings thereof;

5) To render to government agencies of the Government of Puerto Rico and the Government of the United States of America, as well as to private institutions, laboratory services in connection with projects to conduct research and analyses on natural and environmental resources, insofar as rendering such services does not create a possible conflict of interests with the duty of the Department of Natural and Environmental Resources and the Environmental Quality

Board of enforcing their laws and regulations;

6) To conduct research and analytical works following the highest standards and the best accepted practices in the field of natural sciences. The Laboratory must also comply fully with the laws that regulate the practice of chemistry, biology, physics, engineering, medical technology, and any other discipline of the natural sciences, as required by the Laboratory;

7) To obtain all certifications required by specific Commonwealth and Federal agencies in order to discharge its functions pursuant to the pertinent laws and regulations. The Laboratory shall also adopt the quality control norms generally adopted in the field of natural sciences; and

8) To enter into consortia and covenants with public and private universities, as well as with other Commonwealth and Federal government agencies to conduct joint environmental research projects.

c) The conclusions drawn by the Laboratory as a result of its tests and analyses regarding water and air quality, soil pollution and biological, physical or chemical components in natural and environmental resources and systems, or any other test or analysis conducted as part of their ministerial functions, shall be presumed to be true and correct for the Environmental Quality Board, the Department of Natural and Environmental Resources, and the agencies concerned.

The Environmental Quality Board, as well as the Department of Natural and Environmental Resources and agencies concerned, shall be under the obligation to take such actions or measures that, in light of the Laboratory's conclusions, are necessary to ensure the protection of the health and the welfare of citizens and the conservation of natural and environmental resources. Such actions or measures shall include, but not be limited to, the granting, denial, suspension, modification or revocation of permits, licenses, franchises or any other kind of authorization, and the issue of orders to take corrective measures and of orders to cease and desist.

d) The income generated by the services and operations developed by the Laboratory, as well as any other income received from the Government of Puerto Rico and the Government of the United States of America, on account of private donations and from other sources of income received by virtue of the duties and authorities conferred under this Act, shall be covered into the Special Account Set For The Environmental Quality Board, created by Title II of this Act, and used to make improvements to Laboratory facilities; to buy equipment and supplies and equipment maintenance, calibration and repair contracts; to provide training to the personnel; to plan and develop special research studies in coordination with the other programs of the Environmental Quality Board; to observe the activities and obligations established in covenants and consortia with public and private universities or other government agencies to conduct joint environmental research

projects.

e) The Environmental Quality Board and the universities, campuses and public agencies that are parties to consortia or covenants to conduct joint environmental research projects, may delegate the administration of the funds appropriated for the projects and activities contemplated therein, as well as the purchase and leasing of supplies and equipment, onto the persons designated by these to supervise and develop the same; provided, that such persons shall manage these funds and acquire, use, keep and dispose of materials and equipment in strict compliance with accounting and administration norms and the external audits that are to be observed by the Environmental Quality Board. The Internal Auditing Office of the Environmental Quality Board shall be empowered to audit the operations and the use of funds under such covenants and consortia.

f) The funds necessary for the operating expenses of the Laboratory shall be appropriated annually to the budget of the Environmental Quality Board pursuant to the Joint Resolution on the General Budget of the Government of Puerto Rico.

g) Regulation on Refrigerant Sale and Management.—

The sale of any substance used as a refrigerant in any refrigeration equipment, air conditioners, mobile equipment and others, shall be restricted to:

1) Refrigeration Technicians with a license who are College members and certified by the EPA.

2) Engineers with a license who are College members and certified by the EPA.

h) To dispose of equipment that normally contains any refrigerants, a certification must be issued by a refrigeration technician indicating that such refrigerants have been removed from the equipment to be dispensed with and that such refrigerants have been disposed of adequately.

Such certifying technician shall keep a log of the amount of refrigerant removed which shall include the name, address, and telephone number of the owner of the equipment, as well as the date of removal and number of the affixed stamp.

As a requirement for the payment of invoices by the government and its agencies to companies, contractors and individuals, proof shall be submitted as to the fact that the works in connection with the installation, servicing, maintenance, repair, and removal of equipment with refrigerants have been conducted by skilled personnel as proven by their certification through the use of stamps from the College of Refrigeration and Air Conditioning Technicians.

i) It is hereby provided that a fine of five hundred (500) dollars shall be imposed on natural or juridical persons who consent or agree to the installation, repair, maintenance or any other kind of servicing on any refrigeration or air conditioning or analogous equipment without there being proof that the providers of such services comply with licensing and

certification requirements at the time they render such work. The illegal purchase or sale of refrigerants shall be penalized with a fine of not less than one thousand (1,000) dollars if the amount purchased does not exceed one hundred (100) pounds; if the amount were to exceed one hundred (100) pounds, the fine shall be of not less than five thousand (5,000) dollars nor greater than ten thousand (10,000) dollars.

j) All Sick Building evaluations in connection with the operating order of an air conditioner or any refrigeration equipment shall include a Certification regarding the operating conditions of such equipment by a Refrigeration and Air Conditioning Technician who holds a license and is a College member. Persons authorized under this Act to buy refrigerants may authorize third parties to collect and transfer the various refrigerants to warehouses or workplaces, under the responsibility of the authorized person. These third parties are not legally entitled to make use of the refrigerant.

k) The College membership card and the EPA certification shall be the documents required to identify persons authorized to manage refrigerants.

Section 10.—Transfer of Authorities.—

The Board is hereby transferred the following powers and authorities which are by law vested in other agencies or instrumentalities of the Commonwealth of Puerto Rico, to wit:

1. All powers and authorities that the provisions of the “Air Contamination Control Act” and the Regulations thereunder confer onto the Consulting Board created therein and onto the Department of Health of

Puerto Rico and the Secretary of Health of Puerto Rico.

2. All powers and authorities that the “Water Pollution Control Act,” the Regulations thereunder, and Reorganization Plan No. 5 of February 17, 1950, confer onto the Department and the Secretary of Health of Puerto Rico, respectively.

3. The authority of the Secretary of Transportation and Public Works, who is in charge of the custody of public land, to issue the authorization to sink regular wells or install watermills in public lands as granted under Section 21 of the Law of Waters of March, 1903.

4. The Environmental Laboratory of the Department of Natural and Environmental Resources is hereby transferred to and merged with the Laboratory of the Environmental Quality Board. The new entity shall be known as the “Puerto Rico Environmental Research Laboratory.”

The Department of Natural and Environmental Resources and the Environmental Quality Board hereby transfer to the Puerto Rico Environmental Research Laboratory the functions, programs, services, and staff of their respective environmental laboratories; provided, that, by mutual agreement, the Department of Natural and Environmental Resources and the Environmental Quality Board shall determine which files, documents, laboratory equipment, and any other personal property of the Department of Natural and Environmental Resources and the Environmental Quality Board that they shall transfer to the Puerto Rico Environmental Research Laboratory.

The staff of the Department of Natural and Environmental Resources transferred to the Environmental Quality Board by virtue of this Act shall conserve without impairment all rights vested under personnel laws and regulations, as well as the rights, privileges, obligations, and status in

connection with any existing pension, retirement or savings and loan fund system or systems to which they may be affiliated at the time of approval of this Act.

The creation of the Puerto Rico Environmental Research Laboratory and the transfer of functions, personal property, budget, and staff mentioned above shall neither affect nor interrupt research projects being conducted by the Department of Natural and Environmental Resources and the Environmental Quality Board at the time of transfer.

Funds, appropriations, and budget surpluses in the possession of the Department of Natural and Environmental Resources, as well as the unencumbered balance from other funds previously destined to functions discharged by the laboratory attached to the Environmental Quality Board prior to the date of effectiveness of this Act.

Section 11.—Consultations and Use of Facilities.—

In discharging its powers, functions, and duties under this Act, the Board shall:

1. Consult with such representatives of the scientific community, industry, agriculture, labor, conservation organizations, municipal governments, and other groups, as the Board may deem necessary; and
2. Make the fullest use of the services, facilities, and information (including statistics) from public and private agencies and organizations and from persons, so as to prevent duplication in terms of efforts and expenses, thus ensuring that Board activities shall not be in repetition of or in conflict with similar activities authorized by law and carried out by established agencies.

Section 12.—Hearings, Orders, and Judicial Proceedings.—

- A. The Governing Board of the Environmental Quality Board shall

hold public hearings, either *motu proprio* or by request of an interested party, in connection with matters relative to the implementation of this Act. In carrying out these efforts, it may compel the appearance of witnesses and the presentation of documents, and allow or disallow evidence and take oaths from witnesses, which authorities it may delegate onto examining officials or administrative judges.

1. Hearings held by the Governing Board shall be presided by one or more examining officials or administrative judges, who shall be designated by the Chair or by the Governing Board, respectively, and who shall be attorneys-at-law, officials or employees of the Environmental Quality Board or members of the Governing Board or legal consultants or experts on the matter under discussion who have been contracted for hearing purposes. Such hearings may also be presided by attorneys, officials or employees of the Environmental Quality Board or by members of the Governing Board or legal consultants or experts on the matter under discussion who have been contracted for hearing purposes, onto whom the Governing Board has delegated the authority to adjudge and who shall be designated by the latter as administrative judges.

2. The Board shall set the date, time, and place for holding the hearing and notify the interested parties, which may appear *pro se* or represented by an attorney.

3. The Board shall issue either a resolution as pertinent or its decision within a reasonable term after the hearing has been held, not to be greater than sixty (60) days, and notify each of the parties interested with a copy thereof. Notice of the resolution or decision of the Board shall be given by certified mail and enclose a certification

from the Secretary of the Board.

4. Any person adversely affected by a resolution, order or decision of the Governing Board may request the latter to reconsider its determination or request a review by the Court of Appeals of Puerto Rico, pursuant to the provisions of the “Puerto Rico Uniform Administrative Procedures Act.”

5. Filing a request for administrative reconsideration or for judicial review shall not exempt any person from complying with or obeying any decision or order of the Governing Board, nor shall such action operate under any circumstance as a suspension or postponement of the effectiveness thereof, unless there is a special order of the Governing Board or the Court of Appeals of Puerto Rico.

6. Judicial reviews shall be conducted based on the administrative record of proceedings before the Governing Board, as such record has been certified by the Secretary of the Board. Determinations of the Governing Board in connection with facts shall be conclusive if sustained by substantial evidence.

7. The Governing Board shall hold public hearings prior to authorizing and promulgating any rules or regulations that the same may submit under this Act. Hearings shall be held pursuant to the norms established for such purposes by the Governing Board, in compliance with the provisions of the “Puerto Rico Uniform Administrative Procedures Act.” Regulations, guidelines, and orders to establish internal norms and directives, may be adopted without submission to this norm.

Section 13.—Nature of the Board for Federal Purposes.—

The Environmental Quality Board is hereby designated as the agency

of the Commonwealth of Puerto Rico with the authority to exercise, execute, receive and administer delegation, establish regulations, and implement a permit system in connection with, but not limited to, the Clean Water Act, the Clean Air Act, the Solid Waste Disposal Act, the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response, Compensation and Liability Act, as these have been amended, and for purposes of any other Federal legislation that may be approved in the future by the United States Congress as pertains to environmental conservation, natural resources, solid waste, and other matters relative to the purposes of this Act.

Section 14.—Administration of the Puerto Rico Water Pollution Control Revolving Fund.—

The Board is hereby authorized to administer the Puerto Rico Water Pollution Control Revolving Fund created by virtue of Section 14 of Act No. 44 of June 21, 1988, as amended, as required under Title VI of the Clean Water Act. The Board shall also have the power to solicit, accept, and receive on behalf of the Revolving Fund, capitalization donations under such Act, as well as to enter into capitalization donation agreements with the United States Environmental Protection Agency, receive matched funds from the Commonwealth of Puerto Rico as required under Title VI of the Clean Water Act, and deposit such donations and matched funds into the Revolving Fund. The Board shall oversee the use of the moneys of the Revolving Fund by recipients thereof, evaluate environmental studies as dictated under Title VI of the Clean Water Act, and take any other actions as required by such Act in connection with the Administration of the Revolving Fund. Furthermore, the Board is hereby authorized to assist the Puerto Rico Infrastructure Financing Authority in lending funds deposited into the

Revolving Fund to borrowers that qualify under Title VI of the Clean Water Act, in structuring any financing program, and in issuing bonds to finance such programs. The Board may contract any individual to discharge any of the responsibilities established under this Section.

Section 15.—Administration of the Puerto Rico Commonwealth Drinking Water Revolving Fund.—

The Environmental Quality Board is hereby authorized to participate and assist the Department of Health in the administration of the Puerto Rico Commonwealth Drinking Water Revolving Fund created by virtue of Act No. 44 of June 21, 1988, as amended, and as required under the Title of the Safe Drinking Water Act, P. L. 104-182, as amended.

The Environmental Quality Board may receive from the Department, capitalization donations under such Act, as well as receive matched funds from the Commonwealth of Puerto Rico as required under the Title of the Safe Drinking Water Act, in order to use them in any manner allowed under such Act, to conduct and/or evaluate environmental studies as dictated under the Safe Drinking Water Act and subsection B(3) of Section 4 of this Act, and to take any other actions required under the Safe Drinking Water Act in connection with the administration of the Puerto Rico Commonwealth Drinking Water Revolving Fund, as per the terms of any agreement executed by the Authority, the Department of Health, and the Environmental Quality Board.

The Board may contract any person to discharge its responsibilities as established under this Section.

Section 16.—Penalties.—

A. Any person who infringes any provision of this Act or the rules and regulations adopted thereunder, or who fails to comply with any

resolution, order or agreement dictated by the Board, shall be guilty of a misdemeanor, and upon conviction, punished by a fine not lesser than two hundred (200) dollars and not greater than five hundred (500) dollars. In the discretion of the Court, an additional fine of five hundred (500) may be imposed for each day the violation persisted.

In those cases in which such infractions relate to the Hazardous Waste, Water Quality, Underground Injection Control, and Lead Paint Removal Permit and Certification Programs, the person shall be guilty of a felony and sanctioned with imprisonment for a fixed term of nine (9) months. Should there be aggravating circumstances, the established fixed penalty may be increased up to a maximum of one (1) year; should there be mitigating circumstances, the penalty may be reduced down to a minimum of six (6) months and one (1) day. Furthermore, the Court shall impose a fine not lesser than ten thousand (10,000) dollars a day and not greater than twenty-five thousand (25,000) dollars for each day such violation persisted.

B. In addition to the fine minimum specified in this Act, the Board, represented by the Secretary of Justice or his/her attorneys, is hereby authorized to resort to any Court with competent jurisdiction to recover the total value for damages to the environment and/or the natural resources of Puerto Rico caused by such violation.

The amounts collected on account of sentences shall be covered into the special account set for the Board, to be used by the latter.

C. The Environmental Quality Board is hereby empowered to impose administrative fines and sanctions for infractions of this Act, or of the orders, rules, and regulations issued and approved by the Board under this Act. Administrative fines shall not exceed twenty-five thousand (25,000) dollars for each infraction, being it understood that each day the

infraction persists shall be deemed to be a separate violation.

D. In the event that the Board should make a finding of contempt in the commission or continuance of acts for which an administrative fine has already been imposed or in the commission or continuance of acts in violation of this Act and the regulations thereunder, or a finding of contempt in the noncompliance with any order or resolution issued by the Board, the latter, in exercising its discretion, may impose an additional administrative fine up to a maximum of fifty thousand (50,000) dollars for any of the acts indicated herein.

E. Any person who knowingly makes any false representation, certification or statement under this Act, the regulations approved thereunder, who knowingly makes any false representation in any report required by the Board under this Act or the regulations thereunder; or who knowingly and so as to produce inaccurate results, alters any tracking facility or method that has been required by the Board, shall be guilty of a misdemeanor, and upon conviction, punished by a fine not lesser than one hundred (100) dollars and not greater than five hundred (500) dollars.

In those cases in which such infractions relate to the Hazardous Waste, Water Quality, and Underground Injection Control Programs, the person shall be guilty of a felony and sanctioned with imprisonment for a fixed term of nine (9) months. Should there be aggravating circumstances, the established fixed penalty may be increased up to a maximum of one (1) year; should there be mitigating circumstances, the penalty may be reduced down to a minimum of six (6) months and one (1) day. Furthermore, the Court shall impose a fine not lesser than ten thousand (10,000) dollars a day and not greater than twenty-five thousand (25,000) dollars a day for each violation, being it understood that each day the infraction persists shall be

deemed to be a separate violation.

F. The amounts collected on account of administrative fines imposed by the Board and all civil and criminal fines imposed by the Courts under the provisions of this Act shall be covered into the Special Account Set For the Environmental Quality Board.

G. The Environmental Quality Board is hereby empowered to impose administrative fines and sanctions against any person who violates any provision established in the Air Operation Permit Program under Title V of the Clean Air Act, as amended, or any permit condition or any application charges or fees imposed pursuant to such Program. The administrative fine thus imposed shall not exceed twenty-five thousand (25,000) dollars for each infraction, being it understood that each day the infraction persists shall be deemed to be a separate violation.

H. The Board, represented by its attorneys or by any other attorney it may designate, or by the Secretary of Justice or his/her attorneys, is hereby authorized to resort to any Court with competent jurisdiction in order for civil penalties to be imposed or recovered, which penalties shall not exceed twenty-five thousand (25,000) dollars for each violation, against any person who violates any provision established under the Air Operation Permit Program, Title V of the Clean Air Act, as amended, any term or condition of any permit issued under such Program, any order issued by such Program, or any application charges or fees imposed by such Program, being it understood that each day the infraction persists shall be deemed to be a separate violation.

I. Any person who knowingly violates any provision established in the Air Operation Permit Program under Title V of the Clean Air Act, as amended, or any condition of the permit or any permit application charges or

fees imposed by such Program, and any person who knowingly makes any material statement, representation or certification that is in any way false on any notices or reports required by any operation permit under Title V of the Clean Air Act, as amended, or who knowingly renders inoperative any sampling equipment or method required pursuant to the Program, shall be guilty of a felony, and upon conviction, sanctioned by a fine not lesser than one thousand (1,000) dollars and not greater than twenty-five thousand (25,000) dollars for each violation, being it understood that each day the infraction persists shall be deemed to be a separate violation, with punishment by imprisonment for the fixed term of one (1) year. Should there be aggravating circumstances, the fixed imprisonment term may be increased up to a maximum of eighteen (18) months; should there be mitigating circumstances, the term may be reduced down to a minimum of six (6) months.

J. Any person affected by violations of the Operation Permit Program under Title V of the Clean Air Act, as amended, is hereby empowered to appear before the Courts to enforce compliance by the owner or operator with the provisions of the Program and/or the permit, as the case may be, after the person thus affected has notified the Board about the violation and the latter has not taken any administrative action on the matter within sixty (60) days as of the date of notice. Should the Court determine that a violation has been committed, the latter may order an adequate remedy and/or impose the civil penalties established in subsection (H) of this Section.

K. The amounts collected on all administrative fines imposed by the Board and the amounts collected on civil and criminal fines imposed by the Courts shall be covered into the Special Account Set For the

Environmental Quality Board. The amounts collected on civil and criminal fines imposed by the Courts under subsections (H), (I) or (J) or which are attributable to violations of permits under Title V of the Clean Air Act, as amended, shall be destined to environmental research projects.

Section 17.—Confidential Documents.—

A. Any information furnished to the Board by owners or operators of potential sources of pollution for the environment and natural resources:

1. Relative to production or to production procedures;
2. Relative to the volume of sales;
3. Which may adversely affect the competitive position of the person furnishing the information, shall be of a confidential nature both for the Board and for the United States Environmental Protection Agency (E.P.A.), subject to Federal confidentiality requirements, unless the authorized person furnishing the information expressly authorizes such information to be disclosed and made available to the public.

B. Data about effluents, discharge permit applications, discharge permits, and information relative to the level of pollutants in bodies of water, shall continue to be documents of a public nature.

C. The general requirement for the Board to classify certain information as confidential shall not be construed as a limitation on its use:

1. By an officer, an employee or an authorized representative of the Board, the E.P.A. or the Commonwealth of Puerto Rico in implementing this Act;
2. For analyses or summaries relative to the general condition of the environment, insofar as the information does not identify the person furnishing the same.

Section 18.—Effectiveness of Previous Documents.—

All quality norms, orders, determinations, rules, permits, contracts, licenses, and authorizations issued, made, granted or enforced by any official or agency of the Commonwealth in exercising the authorities transferred by virtue of this Act, shall remain in full force, but these may be amended, modified, invalidated or revoked by the Board created under Title II of this Act.

Section 19.—Civil Actions.—

Any natural or juridical person may institute actions for damages in the Courts of Justice against any natural or juridical person on the grounds of damages sustained on account of violations of this Act. Such civil action shall be independent and different from administrative procedures conducted by the Board. Likewise, any natural or juridical person affected for the non-implementation of this Act may resort to the Court of First Instance to request that a mandamus be issued to enforce compliance with the provisions of this Act; provided, however, that such recourse shall not be admissible to question a decision whereby the Environmental Quality Board has determined that the requirements of subsection B(3) of Section 3 4 of this Act have been met upon considering an environmental document, which action shall be conducted exclusively under the provisions of the Uniform Administrative Procedures Act. None of the provisions of this Act may be construed so as to allow any natural or juridical person to institute actions against the Environmental Quality Board or its officials or employees for the non-implementation of this Act or the regulations adopted thereunder.

Section 20.—Limitations.—

None of the provisions of this Act shall be construed so as to:

1. Limit or interfere with the powers and authorities that other

laws, executive orders, and regulations have conferred onto the Department of Health and the Secretary of Health of Puerto Rico.

2. Confer authority onto the Board in connection with atmospheric conditions that may exist exclusively within a commercial or industrial plant.

3. Revoke or limit the application of any law, municipal ordinance or regulation in effect on the matter of sanitation or industrial health and safety.

4. Limit any power of the Governor or any other official to declare a state of emergency and to act as dictated by such declaration.

Section 21.—Advisory Council, Creation; Advocate.—

A. The Environmental Quality Board shall assist and advise the Governor of Puerto Rico and the Legislature in the creation of the Small Business Advisory Council (the “Council”) and in the designation of an Advocate (the “Advocate”) for matters relative to the Program required under Section 501 of the Clean Air Act. The Board shall serve as the Secretariat of the Advisory Council, with the purpose of preparing and disclosing reports and consultative opinions.

B. The Council shall be constituted by the following persons:

1. Two (2) persons, other than owners or persons representing owners of small businesses that operate pollutant emission sources, to be selected by the Governor to represent the public interest.

2. Two (2) persons who own or who represent owners of small businesses that operate atmospheric pollutant emission sources, each of whom shall be selected by the Majority and the Minority Floor Leaders of the House of Representatives.

3. Two (2) persons who own or who represent owners of emission sources of small businesses that operate atmospheric pollutant emission sources, each of whom shall be selected by the Majority and the Minority Floor Leaders of the Senate of Puerto Rico.

4. One (1) member selected by the Chair to represent the Environmental Quality Board.

C. The Council shall at the very least:

1. Render consultative opinions concerning the effectiveness of the Small Business Technical Assistance and Environmental Compliance Program of the Government of Puerto Rico (the "Small Business Program"), including any difficulties encountered and the degree and severity of the oversight actions taken.

2. Prepare periodical reports for the consideration of the Chair of the Environmental Quality Board and the Administrator of the United States Environmental Protection Agency regarding compliance of the Small Business Program with the requirements of the Paperwork Reduction Act (44 U.S.C. §§ 3501 et seq.), the Regulatory Flexibility Act (5 U.S.C. §§ 601 et seq.), and the Equal Access to Justice Act (5 U.S.C. § 504), and

3. Review the information to be made public by the Small Business Program to ensure that such information is readily understandable.

D. Council members shall serve for a term of three (3) years and continue to hold office until their corresponding successors are designated. Traveling expenses, mileage, toll fees and per diems expended in the discharge of their duties shall be reimbursed by the Small Business Program.

E. The Advocate for Small Businesses shall be designated by the Governor with the advice and consent of the Legislative Branch. One of the main functions of the Advocate shall be to represent small businesses before government agencies. This office shall also be entrusted with the following functions:

1. To conduct independent evaluations on all aspects of the Small Business Program (SBP).
2. To review and issue comments and recommendations to the E.P.A. and local authorities in connection with the development and implementation of regulations that may have an impact on small businesses.
3. To facilitate and encourage the participation of small businesses in the development of new regulations that may affect the latter.
4. To provide assistance in the preparation of reports to higher authorities and the public in connection with the applicability to small businesses of the requirements set forth under the Clean Air Act.
5. To assist in the disclosure of information (i.e. regulations proposed, control technology, etc.) to small businesses and other interested groups.
6. To sponsor and participate in meetings and conferences with officials from local oversight agencies, industrial groups, and small business representatives.
7. To assist in the investigation and resolution of complaints and disputes of small businesses against local regulatory authorities.
8. To periodically review the works and the services

provided by the Small Business Program (SBP) to small businesses.

9. To refer small businesses to the proper SBAP specialist, so that they may obtain information and assistance concerning viable alternate technologies, changes in processes, products, and operational methods to reduce atmospheric pollution and accidental leakages.

10. To assist in or arrange for the preparation of guideline documents for the SBAP so as to ensure that the language can be readily understood by non-technical personnel.

11. To work with manufacturer and small business associations on matters relative to voluntary acts of compliance with regulations.

12. To act as a liaison among the Small Business Administration, the Department of Commerce, and Federal Agencies that may have financial assistance programs for small businesses to comply with environmental regulations.

13. To act as a liaison with financial institutions to assist small businesses in locating financial assistance sources as necessary to comply with local requirements of atmospheric pollution control; and

14. To conduct evaluation studies about the impact of the law on the economy of Puerto Rico and on small businesses.

F. The Air Quality Area shall act as a liaison within the Environmental Quality Board to furnish all documents relative to technology and control procedures so as to assist the Office of the Advocate in the discharge of its responsibilities. The Office of the Advocate may operate a hotline (may be a toll-free number) to provide confidential assistance to sources in order to address their individual problems and complaints.

Section 22.—Appropriation of Funds.—

A. The amounts necessary to meet the purposes of this Act for the current fiscal year and for subsequent fiscal years shall be annually consigned in the General Expenses Budget Act of the Commonwealth of Puerto Rico.

B. All moneys received by the Environmental Quality Board in the discharge of its duty to implement this Act, from sources specified therein and from any other sources, as well as all civil and criminal fines imposed by the General Court of Justice of Puerto Rico under the provisions of this Act, shall be covered into a special account, to be denominated “Special Account Set For the Environmental Quality Board”; except for moneys that are to be covered into the Special Account Set For the Voluntary Property Cleanup and Redevelopment Program, the Special Account Set for the Air Operation Permit Program or the Environmental Emergency Fund.

C. The Secretary of the Treasury shall make available to the Board the moneys covered into the Special Account Set For the Environmental Quality Board by means of disbursements authorized or signed by the Chair of the Board. These funds may be used by the Board for any necessary actions, to develop projects for the benefit of the environment, to make contributions to the Puerto Rico and the Caribbean Environmental Trust Fund created under Title V of this Act or to the Environmental Emergency Fund created under Title IV of this Act or to other funds administered by the Board, to carry out any activities to discharge its duties and responsibilities, to defray any nonrecurring operating expenses, training, acquisition of equipment and supplies, contracting of experts and attorneys, and for any other purposes that promote the accomplishment of the objectives of this Act.

D. The Secretary of the Treasury shall make available to the Environmental Quality Board the moneys deposited in the Special Account Set For the Air Operation Permit Program by means of disbursements authorized or signed by the Chair of the Environmental Quality Board.

E. The Secretary of the Treasury shall make available to the Board the moneys deposited into the Special Account Set For the Voluntary Property Cleanup and Redevelopment Program by means of disbursements authorized or signed by the Chair of the Board.

F. The Secretary of the Treasury shall make available to the Board the moneys deposited into the Environmental Emergency Fund by means of disbursements authorized or signed by the Chair of the Board.

G. The Secretary of the Treasury is hereby authorized to advance to the Environmental Quality Board the amounts for reimbursements to be made by the United States Government in the proportion provided for by law, after presenting the documents that attest to the approval of each project by the corresponding authorities of said Government.

TITLE III

ON THE NATIONAL DIGITIZED ENVIRONMENTAL INFORMATION SYSTEM

Section 23.—National Digitized Environmental Information System.—

A. The National Digitized Environmental Information System is hereby established, to be under the responsibility and direction of the Environmental Quality Board. Then objective of this System is to gather, organize, and make available to the public, through electronic media, technical, educational, and scientific information, in existence or to be generated, about subjects relative to the environment and the natural

resources, of both renewable and nonrenewable resources.

B. The information contained in the National Digitized Environmental Information System shall be freely consulted and accessible. Such System shall keep a constantly updated bibliography of the information contained therein, which shall be available to System users.

Section 24.—Advisory Council for the National Digitized Environmental Information System .—

A. The Advisory Council for the National Digitized Environmental Information System is hereby established, to be attached to the Environmental Quality Board.

B. The Council shall be presided by the Chair of the Environmental Quality Board and be composed, furthermore, by one representative from each of the following government and non-government bodies entirely or partially engaged in generating or receiving technical, educational, and scientific information about subjects relative to the environment and the natural resources: the Department of Natural and Environmental Resources, the Planning Board, the Department of Agriculture, the University of Puerto Rico, and one representative from non-government environmental groups. The latter representative shall be appointed by the Chair of the Environmental Quality Board, which appointment shall have a term of two years.

Representatives from each of private university systems accredited by the Council on Higher Education, which offer degrees in natural and environmental sciences, shall also be a part of the Advisory Council. The Chair of the Environmental Quality Board shall request that each of these institutions designate a member and an alternate member to represent them in the Advisory Council.

C. None of the members of the Council shall receive salaries, per diems or similar compensations on account of their Council membership; except for the representative of environmental groups, who shall earn on account of per diems the amount of seventy-five (75) dollars for each day he/she discharges his/her functions as an active member. However, the time devoted to the works of the Council may be considered as part of the tasks and tour of duty of its members.

Section 25.—Duties and Responsibilities of the Advisory Council.—

The Advisory Council for the National Digitized Environmental Information System shall have the following duties:

1. To establish the criteria, in addition to those set forth in this Act, to determine which information shall be incorporated into and be a part of the system.
2. To determine priorities in the works to digitize that information which is not available through electronic media.
3. To establish the organization of the System's library.
4. To recommend the sources that shall provide information to the System.
5. To advise the Chair of the Environmental Quality Board in the drafting of regulations necessary for the effective operation of the System and the Council proper.

Section 26.—Duties of the Agencies, Municipalities, Public Corporations and Instrumentalities, and Universities.—

A. Any agency, office, instrumentality, public corporation or municipality of the Commonwealth of Puerto Rico that receives or conducts research, studies or works of a scientific nature on the environment and the natural resources, shall remit a copy of such research, studies or works to the

Environmental Quality Board.

B. Students conducting works, studies or research on subjects relative to the environment and the natural resources that are a part of the requisites to obtain a degree (theses or thesis papers), shall be requested by the pertinent university authority to voluntarily furnish a copy of such thesis or thesis paper so that the same may be incorporated into the System.

C. As for natural or juridical persons conducting research, studies or works of a scientific nature on the environment or the natural resources not destined to a public record or purpose, who are System users, System operators shall maintain a request addressed to such persons so that they may voluntarily submit a copy of such research, studies or works for the System.

D. All copies shall be submitted in such format as the Chair of the Environmental Quality Board may define as adequate for the configuration of the National Digitized Environmental Information System, in an adequate electronic reproduction medium, so as to render the same accessible to all persons interested through electronic networks in existence or to be created.

E. The various public institutions that, as part of their ministerial duty, are engaged in generating or receiving technical, educational, and scientific information about the environment and the natural resources, shall remit to the Environmental Quality Board a copy of studies, research and works of a scientific nature on such subjects as they have on file up to the present in electronic format, or establish with the latter agency such agreements as necessary in order for such information to be made accessible through the System by means of the necessary electronic links.

F. As for Federal agencies and instrumentalities operating in Puerto Rico which generate or receive information of a scientific nature

about the environment and the natural resources, the Chair of the Environmental Quality Board shall request, under the same conditions as dependencies of the Commonwealth, that they remit copies of such information, or establish with these agencies such agreements as necessary in order for such information to be made accessible through the System by means of the necessary electronic links.

Section 27.—Gathering of Information.—

The Environmental Quality Board shall contract, if it should deem necessary, to be charged to its next three annual budgetary appropriations and starting at the beginning of the next fiscal year, such services as indispensable so that within a term of three years, all works, research and studies of a scientific nature in existence on the subject of the environment and the natural resources recommended by the Advisory Council which are not on digitized format, are recorded into computer-accessible formats. The Environmental Quality Board shall begin with works, research or studies deemed to be essential for starting a National Digitized Environmental Information System, for which purpose, the Board shall follow the recommendations of the Advisory Council.

Section 28.—Access Center for the National Digitized Environmental Information System.—

A. The Environmental Quality Board shall enable an area within or near its main offices in which it shall make available and accessible to the public, organized under an effective library system, with adequate personnel and with sufficient equipment and computer terminals, an “Access Center for the National Digitized Environmental Information System.” Such Center shall have a server as its main information archive, which shall be the main depository of the National Digitized Environmental Information System and

contain the materials, documents, Titles, articles and all other information of this System in digitized format and provide such electronic links as necessary to gain access to information systems, databanks or other pertinent sources considered to be important for the operation of the System.

B. The Environmental Quality Board shall have a term of three (3) years to establish and render the Center operative and incorporate into the electronic information network known as the Internet, the same information as available in the Center hereby created. The information provided through this network shall be freely and readily accessible.

C. In order to guarantee continuous access to the System, the Environmental Quality Board may deposit into other servers the information contained in the System.

Section 29.—Rulemaking Authority.—

The Chair of the Environmental Quality Board shall be responsible for drafting regulations as necessary for the most effective operation of the National Digitized Environmental Information System, including such regulations as necessary to assess and charge the public for costs ensuing from requests from the public for copies, reproductions, maps or other similar materials deposited into the System. Provided, however, that such costs shall be computed and implemented solely to cover costs for reproducing such materials.

Section 30.—Appropriation of Funds.—

The Environmental Quality Board is hereby authorized to use up to a maximum amount of five hundred thousand (500,000) dollars available in the Environmental Emergency Fund each year for the next three (3) fiscal years to defray the installation and setting into operation of the National Digitized Environmental Information System. The Environmental Quality

Board may also use, in order to accomplish the purposes of this Act, any Commonwealth funds available to the Board in its special accounts or budgetary appropriations, as well as the Federal funds available to the Board at present for this purpose or which it may receive in the future. As of fiscal year 2005-2006, the Environmental Quality Board shall solicit funds as necessary in order to maintain and operate the System by incorporating this item into its annual budgetary appropriation.

TITLE IV

ON ENVIRONMENTAL EMERGENCIES

Section 31.—Purposes.—

The purposes of this title are to create an emergency fund to respond to emergencies caused by hazardous substances or waste and to have the necessary funds to match with Federal assistance provided under the Comprehensive Environmental Restoration, Compensation and Liability Act to remove hazardous substances or waste and to remedy the sites contaminated thereby.

Section 32.—Definitions.—

For purposes of this Act, the following terms shall have the meaning stated below:

1. Environmental Emergencies.—Means any discharge or threat of discharge, accidental or unauthorized intentional leakage, seepage, pumping, injection, dumping, emission or disposal, or any situation caused by spilling or leaving a pollutant or a hazardous or low-level radioactive substance or waste or hydrocarbons or their by-products in or on any piece of land or any superficial or underground body of water or out or dispersed into the air or so as to gain access to any paved area or any area covered in asphalt, concrete, tar, or any kind of man-made material that poses a risk or a

threat of risk for public health and safety, the general welfare or the environment.

2. Hazardous Substances.—Means any element, substance, compound or mixture that may harm living organisms or the environment.

3. Hazardous Waste.—Means any element, substance, compound or mixture used in any production process that is reused, destroyed, stored or disposed of and which may harm living organisms or the environment. Also includes any element, substance, compound or mixture that exhibits the characteristics of hazardous waste as established and defined in the regulations adopted by the Quality Board which apply to such waste, which exhibits the characteristics of hazardous waste as defined in the Resource Conservation and Recovery Act in 42 U.S.C. § 6903, which is (listed) or has the characteristics identified under 42 U.S.C. § 6921.

4. Person Responsible.—Means any natural or juridical person or group of private or public persons, including agencies, government instrumentalities, municipalities, and quasi-public corporations, that exercises dominion or supervision or ownership, or holds, or exercises partial or total control over establishments, transfer or final disposal stations, facilities or services that generate, store, transport, distribute or otherwise handle hazardous or radioactive substances, pollutants or waste or hydrocarbons or their by-products which have caused an environmental emergency.

5. Responsive Action (RA).—All such technical, administrative, and legal actions directed to responding, controlling, investigating, and mitigating the direct and indirect impact ensuing from an environmental emergency. These actions comprise the following phases: Immediate Response Action (IRA) or Corrective Action (CA).

6. Immediate Response Action.—Refers to all initial and immediate intervention measures directed to controlling the events or factors causing an environmental emergency in order to prevent, avoid, minimize or mitigate the negative or harmful impact that such events or factors may have on public health and safety or on the environment. If the measures taken as part of the immediate response fail to correct the environmental emergency in a permanent and final manner, then the activities corresponding to the corrective action shall be implemented.

7. Corrective Actions (AC).—Refers to all such activities involving investigation, evaluation, analysis and planning, directed to establishing a final or permanent correction of any adverse impact ensuing from the emergency. This phase includes, but shall not be limited to, the following stages:

Stage I.—Developing a Work Plan for the Corrective Action.—

This Work Plan shall include at the least:

- 1) The characterization of the impacts identified in the emergency;
- 2) The investigative studies to be conducted;
- 3) The technical evaluation and analysis; and
- 4) The remediation plans.

Stage II.—Consists of the Evaluation of the Effectiveness in the Implementation of the Work Plan.—

Stage III.—Implementation of the Work Plan.—

Section 33.—Commonwealth Environmental Emergency Response Planning Commission.—

A. The Commonwealth Environmental Emergency Response Planning Commission is hereby created, to be attached to the Environmental

Quality Board. Such Commission shall be constituted by the Chair of the Environmental Quality Board, who shall preside; the Secretary of Health; the Secretary of Natural and Environmental Resources; the Secretary of Justice; the Secretary of Labor; the Director of the Commonwealth Emergency and Natural Disaster Management Agency; the Fire Marshall; the Superintendent of the Police; the President of the Public Service Commission; the President of the University of Puerto Rico; and the chairs of the Local Environmental Emergency Response Planning Committees elected pursuant to the regulations adopted by the Commission. Furthermore, the Governor of the Commonwealth of Puerto Rico shall designate five (5) public interest representatives as members of the Commonwealth Commission. Each of the members of the Commonwealth Commission shall designate, in writing, one person to substitute for him/her in the works of the Commonwealth Commission when necessary. These persons shall be recognized as Alternate Members of the Commonwealth Commission.

B. The Commonwealth Commission shall adopt bylaws for its organization and operation. All determinations shall be taken by the affirmative vote of the majority of the members attending the meeting. All meetings or assemblies shall require a quorum equal to half plus one member of the Commonwealth Commission.

Section 34.—Duties and Responsibilities of the Commonwealth Commission.—

A. The Commonwealth Commission shall be in charge of implementing the provisions of Title III of the Superfund Amendment and Reauthorization Act, better known as the Emergency Response Planning and Communities Right-to-Know Act, within the jurisdiction of the

Commonwealth of Puerto Rico.

B. Environmental emergency responses shall be planned taking into account the provisions of this Act, and most particularly, the powers and authority delegated onto the Environmental Quality Board.

C. The Commonwealth Commission is hereby empowered, among other things, to create and organize the Local Environmental Emergency Response Planning Committees in coordination with municipalities.

Section 35.—Immunity.—

No judicial action whatsoever shall be admissible against the Commonwealth Commission or the Local Committees, or against their members or the public and private agencies or entities to which they may belong, or against the officers, officials or employees thereof, to claim compensation for damages allegedly resulting from the enforcement and compliance of the foregoing with the provisions of these Federal and Commonwealth laws or to impede the foregoing from enforcing and complying with the same.

Section 36.—Environmental Emergency Management Program.—

A. The Environmental Quality Board shall establish a program to adequately respond to and manage environmental emergencies and the necessary remedial actions in contaminated sites. The Environmental Quality Board shall be the leading agency in responding to this kind of emergencies. All matters concerning environmental emergency response planning shall be the responsibility of the Commonwealth Commission. The funds and resources necessary to maintain such program operating shall be solicited and consigned in the agency's operating expenses budget.

B. The Commonwealth Emergency and Natural Disaster Management Agency and all other agencies, departments, municipalities,

and public corporations and instrumentalities shall provide the Board with all the assistance necessary in order to promptly and adequately respond to environmental emergencies, coordinate their respective emergency plan with the latter, and execute collaboration agreements as pertinent.

Section 37.—Creation of the Environmental Emergency Fund.—

A. The Puerto Rico Environmental Emergency Fund is hereby created in the Department of the Treasury, to be administered by the Environmental Quality Board, hereinafter denominated the Fund.

B. The Fund shall be made up by the fiscal resources approved by the Legislature, funds from the Federal government, and other funds from any other source provided to accomplish the purposes of Sections 31 through 46 of this Act, among which are the revenues collected under the “Used Oil Fund Act,” the “Used Tire Management Act,” and any other laws that order the transfer or the covering of funds into the Environmental Emergency Fund.

C. In order to comply with the purposes of this Act, as of June 30, 2004, it is hereby provided that the Environmental Emergency Fund shall arrive at a balance of twenty-five million (25,000,000) dollars, to be composed of twelve million, five hundred thousand (12,500,000) dollars from the existing balance for fiscal year 2003-2004, plus a revolving credit line of twelve million, five hundred thousand (12,500,000) dollars. It is hereby provided that, should an environmental emergency arise which requires the use of an amount greater than twenty-five million (25,000,000) dollars, the mechanisms available through the Commonwealth Emergency Fund provided for in Act No. 91 of June 21, 1966, as amended.

D. The balance of the Environmental Emergency Fund may never be lesser than twelve million, five hundred thousand (12,500,000) dollars,

excluding the aforementioned line of credit, at the beginning of subsequent fiscal years. Said balance shall be maintained with revenues from sources identified in this Section, including resources from the Commonwealth Emergency Fund provided for in Act No. 91 of June 21, 1966, as amended.

Section 38.—Use of the Fund.—

The Environmental Quality Board may use the moneys covered into the Environmental Emergency Fund for the following purposes:

1. To institute judicial or administrative actions directed to ordering persons responsible for an environmental emergency to take responsive actions as necessary and appropriate to protect the public and the environment from any resulting adverse effects.

2. To develop and implement a program to effectively and efficiently respond to environmental emergency situations, as defined in this Act and other laws and regulations administered by the Board, including studies conducive to assessing damages caused to the flora and fauna; investigations, inspections, and the planning and application of any responsive actions as necessary to address the situation; and the operational expenses of such program.

3. To update an inventory of all the sites or facilities where hazardous substances or waste are or have been deposited in the Commonwealth of Puerto Rico.

4. To provide Commonwealth funds as necessary to match the Federal funds available for cleaning up the sites included in the National Priority List.

5. To provide surveillance and monitoring as necessary for abandoned or uncontrolled facilities where hazardous substances or waste have been deposited and which have been cleaned up, in order to determine

whether these pose a risk to the general welfare and health and to the environment.

6. The Environmental Quality Board is hereby authorized to use any amounts in excess of 12.5 million dollars available at the closing of fiscal year 2003-2004 in the Environmental Emergency Fund, after having covered into the same any corresponding amounts pursuant to the “Used Oil Fund Act,” the “Used Tire Management Act,” and any other laws ordering the transfer of funds at the closing of the fiscal year to the Environmental Emergency Fund, in order to: cover, firstly, any expenses relative to the personnel and operation of the program established by virtue of the provisions of Section 36 of this Act, during the following fiscal year; and defray, secondly, other personnel and operating expenses of such public instrumentality or to develop activities and projects for the benefit of the environment. These funds may be used, among other things, to acquire by purchase or lease, any equipment or instruments, motor vehicles, materials, sites or spaces for offices or storage; for training in or outside Puerto Rico; for safety clothing and equipment and for uniforms; for services and equipment or parts to repair or calibrate equipment and instruments; for office equipment; for communications systems; and for programs and equipment for the automation of its operations and to manage information and data. The Environmental Quality Board may also use the funds referred to in this Section for the acquisition, by purchase or lease, of equipment, instruments, and supplies for the Puerto Rico Environmental Research Laboratory under its charge, as well as to carry out improvements to the physical plant or structure (exteriors and interiors) where the same is located; for the development of scientific research; for the development of projects for the benefit of the environment; for the development of its

programmatic areas, in particular, the Environmental Emergency Response and Remedial Action Area; and to carry out or support any activities as necessary in order for the Commonwealth Environmental Emergency Response Planning Commission to discharge its responsibilities; to meet payment obligations of the Board; for the automation of its operations and to manage environmental data and information, including the creation of a bank on Puerto Rico's environmental data; to lease, buy, repair, and calibrate equipment; and to strengthen the Latin American Green Bridge Program and the Puerto Rico and the Caribbean Environmental Trust Fund, among other things. The Board, through its Internal Audit Office, shall issue an annual certification to the Office of Management and Budget and the Department of the Treasury on the total amount of funds used as of June 30 of each year pursuant to the provisions of this Section.

As of fiscal year 2005-2006, the Board may only use from the Environmental Emergency Fund, an amount equal to one and a half times the amount used in the preceding fiscal year, from any amount available as of June 30 of each year in excess of 12.5 million dollars for the purposes provided for in this Section. If the amount available for the use of the Board as of June 30 of any year should be lesser than one and a half times the amount used in the preceding year, the Board may only use for that year the amount available as of June 30.

7. For research, identification, confinement, treatment, control, and disposal of hazardous substances or waste within the Commonwealth of Puerto Rico in environmental emergency situations, including:

- a) Contracting specialized personnel.
- b) Buying and renting equipment and supplies in addressing the environmental emergency.

c) Other necessary expenses.

8. To develop a public participation program to keep the public informed on all activities carried out pursuant to this Act.

9. To provide financial resources to conduct such studies as necessary to identify new financing sources that could replenish the Fund.

10. The Environmental Quality Board may use the Environmental Emergency Fund to address emergencies and to clean up and remediate sites contaminated by used oils, as defined in Act No. 172 of August 31, 1996, as amended, and the regulations approved thereunder by the Board.

Section 39.—Rulemaking Authority.—

The Environmental Quality Board shall adopt, promulgate, amend, and repeal rules and regulations as necessary in order to implement this Title.

Section 40.—Notice to the Environmental Quality Board; Responsive Action; Incident/Accident Report.—

A. Notice to the Environmental Quality Board.—Any person who gains direct or indirect knowledge of an environmental emergency situation that poses a threat or an imminent risk of endangering human health and safety or the environment shall immediately notify the Environmental Quality Board and the pertinent authorities. The Environmental Quality Board is hereby empowered to adopt regulations on that matter.

B. Responsive Action.—Any time the Environmental Quality Board is notified of the occurrence or the possibility of the occurrence of an environmental emergency that poses an imminent risk of serious harm to the public health or safety or to the environment, after the Board has determined the reasonability and veracity of such notice, the Board shall respond to such emergency and require that the person held to be responsible or his/her

identified representative onto whom he/she has delegated implement any responsive action as the Board may deem necessary and adequate to protect public health or safety or the environment.

Taking into account the urgency of the response that the situation may warrant, the Environmental Quality Board may state such requirement by immediate oral or written notice at the site and the time of the emergency or by oral and written notice after the emergency. If the person responsible should refuse to act, he/she shall be apprised of the legal authority of the Board conferred under Titles II through IV of this Act to issue administrative orders with the imposition of penalties and fines for noncompliance, and as the situation may warrant, to request that the Department of Justice criminally prosecute the person responsible.

In the event that the person held to be responsible by the Board does not believe to be the cause of the environmental emergency duly identified by the Board, the former shall be entitled to an administrative hearing whereby he/she may present exculpatory evidence in his/her favor, pursuant to the rights conferred to any person under adjudicative proceedings, as per the provisions of Act No. 170 of August 12, 1988, as amended.

C. Incidence/Accident Report.—The Environmental Quality Board, through specialized technical personnel, shall have the authority to issue and serve at the time of occurrence of facts a Notice upon the person responsible, so that the latter submit to the Environmental Quality Board within a maximum term of five (5) workdays a written Incident/Accident Report stating the facts that led to the environmental emergency.

Section 41.—Interagency Coordination.—

The Environmental Quality Board shall coordinate any responsive actions taken under the provisions of this Act with other government

agencies, both Commonwealth and Federal, which may have jurisdiction over the case, so as to prevent duplication of efforts or conflicts regarding actions or requirements pertaining to spills or spill threats or environmental emergencies that may affect public health, safety or environmental quality.

Section 42.—Use of a Credit Line or the Emergency Fund.—

The Environmental Quality Board is hereby authorized to solicit, obtain and maintain a line of credit with the Government Development Bank for up to twelve million, five hundred thousand (12,500,000) dollars, to be sued exclusively, if necessary, to manage environmental emergency situations which require the use of all existing funds in the Environmental Emergency Fund. Repayment of this line of credit shall be under the care of the Office of Management and Budget, pursuant to the terms and conditions set by the Government Development Bank. If any case should arise which requires the use of all funds available in the Environmental Emergency Fund as well as the line of credit authorized under this Section, the Board shall issue a certification to the Governor in connection with the environmental emergency situation and the amount of funds necessary to respond thereto or to remedy the pollution problem, and the latter shall authorize the use for such purpose of the funds available in the Emergency Fund created by Act No. 91 of June 21, 1996, as amended, through the corresponding executive order.

Section 43.—Recovery of Expenses.—

Necessary expenses in connection with responsive actions as incurred by the Environmental Quality Board and the agencies, departments, municipalities, corporations, and public instrumentalities lending support to the Board in striving to accomplish the objectives of this Act to handle an environmental emergency, including the corresponding legal expenses, may

be recovered by the Environmental Quality Board by means of an Administrative Order issued by such Board or through civil action instituted at the General Court of Justice of Puerto Rico or the courts of the United States of America, represented by its attorneys, the Secretary of Justice or a private attorney contracted for that purpose, against any person held responsible under this Act or under the provisions of chapters II and IV of this Act. The Board may recover three times the total amount of expenses incurred by the Board and the agencies, departments, municipalities, corporations, and public instrumentalities. The expense certification issued by the Environmental Quality Board shall constitute *prima facie* evidence of the fact that the expenses thus certified are necessary and reasonable. Any party adversely affected by a resolution, order or decision of the Environmental Quality Board in connection with the aforementioned certified expenses may request an administrative reconsideration or a judicial review pursuant to the provisions of Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedures Act.”

Section 44.—Harmful Substance Management.—

A. The Environmental Quality Board is hereby ordered to formulate and adopt an emergency plan that sets forth the measures to be taken and the equipment and materials necessary to minimize damages arising from the spill of harmful substances.

B. The Board is hereby authorized to:

1. Determine and require that the destination recipients or importers of harmful substances pay monetary fees pursuant to the provisions of this subsection.

2. Adopt regulations to require that destination recipients of harmful substances pay monetary fees to defray their programs in

connection with response planning and to respond to harmful substance spills, to control environmental pollution, and to conduct environmental scientific research. These funds may be used for the purposes provided for in this Act. The procedures to be followed in adopting such regulations shall be those which are provided for such purposes in the “Puerto Rico Uniform Administrative Procedures Act.” All destination recipients or importers located in Puerto Rico shall pay to the Department of the Treasury the fees set by the Environmental Quality Board pursuant to the provisions of this clause, upon arrival into Puerto Rico of the harmful substances in question. The funds received by the Department of the Treasury on account thereof shall be covered into the Puerto Rico Environmental Emergency Fund.

3. In determining the fees to be paid, the following factors, among others, shall be taken into consideration: the average amount of harmful substances that destination recipients receive periodically, the hazardousness of the substance received, the time the transporter remains in territorial waters or within the jurisdiction of the Commonwealth of Puerto Rico, and any other factor that may be pertinent.

4. Contract with any agency or instrumentality of the Commonwealth or the Federal government or with any private entity for services to carry out the purposes of Sections 44 and 46 of this Act.

5. Issue orders to do or forbear against public or private corporations or natural and juridical persons, in order to discharge certain functions so as to accomplish the purposes of Sections 44 and

46 of this Act.

Procedures pertaining to the issue of orders, the holding of the corresponding administrative hearings and procedures for court review of orders and resolutions under Sections 44 and 46 of this Act shall be governed by the procedures established in Titles II and IV of this Act and the “Uniform Administrative Procedures Act,” with respect to all other orders and/or resolutions issued by the Board.

6. Establish and operate one or more warehouses to store the equipment and materials to handle spills. These warehouses shall be located at various sites throughout the Island in order to expedite the deployment of equipment and materials in the case of an emergency.

Section 45.—Definitions.—

A. For purposes of the provisions of Section 44 above, the words and phrases stated below shall have the following meaning:

1. Transporter.—Any natural or juridical person who by means of any kind of vessel, vehicle or means of cargo transportation takes harmful substances from one place to another within the jurisdiction of Puerto Rico and its adjacent waters.

2. Destination Recipient.—Any natural or juridical person to whom the transporter is to deliver harmful substance cargo.

3. Harmful Substances.—Those substances in a liquid or gaseous state which by their nature may, in the event of a spill or leak, harm the environment or the health of the citizenry, including, without being limited to, substances such as oil and its byproducts and gases such as toluene. This term also includes hazardous substances or waste as defined in Section 32 of this Act.

4. Spill.—The discharge, emission or expulsion, whether accidental or intentional, of harmful substances from a vessel of any kind through pipelines or any other means, or out to sea or into any other body of water in Puerto Rico.

5. Board.—The Environmental Quality Board.

6. Equipment and Materials.—The equipment and materials necessary to handle harmful substance spill situations as established by regulation.

B. For purposes of the provisions of Section 46 of this Act, the words and phrases stated below shall have the following meaning:

1. Damages.—Means any damage with which lies responsibility under the laws of the Commonwealth of Puerto Rico or the United States of America which leads to, arises from or involves the spill or the possible threat of there being an oil or a hazardous substance spill.

2. Spill.—Means any emission or leak, whether intentional or negligent, including, but not limited to, spills, seepage, leakage, pumping, dumping, discharge or casting of oil or hazardous substances into the ground, in a maritime-land zone, or out to sea. This does not include spills caused by force majeure.

3. On-site Federal Coordinator.—Means the Federal officer designated by the Environmental Protection Agency (E.P.A.) or the Coast Guard service of the United States of America to coordinate and direct any Federal remedial action under subchapter D of the National Contingency Plan, or the officer appointed by the designated agency to coordinate and direct cleanup efforts under subchapter E of the aforementioned Federal Plan.

4. National Contingency Plan.—Means the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. 300, established under the Water Pollution Prevention and Control Act, 33 U.S.C. §§2701 et seq. (Section 1321(d)), as amended by the Oil Pollution Act of 1990, Pub. L. No. 101-380, 104 Stat. 484, 33 U.S.C. §§ 2701 et seq., the Oil Discharge Environmental Incident Contingency Plan of the Environmental Quality Board, and the Oil and Hazardous Substance Contingency Plan of the Coast Guard.

5. Oil.—Means the product generally known as such, of any class or form, and any byproduct thereof, including, but not limited to petroleum, oil, fuel, oily waste, and residual mixtures containing oils, silts or refined oils.

6. Person.—Means any natural or juridical person, partnership, association, instrumentality, municipality, commission or agency of the Commonwealth of Puerto Rico or a political subdivision of a state of the United States of America, or any entity created to operate between the states of the United States of America.

7. Cleanup, Removal or Disposal Expenses.—Means cleanup expenses incurred after an oil or a hazardous substance spill or to prevent such spill, the expenses incurred to mitigate pollution and damages resulting from such spill, and expenses incurred for the disposal of the collected material.

8. Party Responsible. This includes the following:

a) Vessels.—Means a person who owns or operates or rents a vessel.

b) Ground Facilities.—Means a person who owns or operates a facility, excluding regular or oil pipelines, or a

Federal, Commonwealth or municipal agency, commission, instrumentality or political division of the Commonwealth of Puerto Rico or any political subdivision of a state of the United States of America or any interstate entity that, as owner, transfers the title deed, the tenancy and the right of use over such property to another person through a lease, an assignment or a permit.

c) Offshore Facilities.—Means the lease of the area where the facility is located or the holder of the right of use and easements conferred under the applicable Commonwealth law or the Outer Continental Shelf Lands Act, 43 U.S.C. §§ 1301 through 1356, for the area where the facility is located, if such holder is a person other than the lessee, excluding: regular or oil pipelines or deepwater ports duly authorized by law or by a Federal, Commonwealth or municipal agency or by a commission, instrumentality or political division of the Commonwealth of Puerto Rico or a state of the United States of America or by any interstate entity that, as owner, transfers the title deed, the tenancy or the right of use over the property to another person through a lease, an assignment or a permit.

d) Deepwater Port.—Means the assignor of a deepwater port authorized by the Federal Deepwater Port Act of 1974, 33 U.S.C. §§ 1501 through 1524.

e) Regular Pipeline.—Means the owner or operator of any pipeline.

f) Abandonment.—Means any vessel, ground facility, deepwater port, regular pipeline, oil pipeline or

offshore facility which has been abandoned or fallen into disuse, including the parties which would have been responsible before such vessel or facility was abandoned.

9. Intervening Party.—Means any person who has not had any part in or responsibility for the original spill and intervenes for purposes of cleaning up, removal, and disposal of the spilled material, including the participation in damage mitigation, whether voluntarily or through a contract, who offers assistance or advice to remedy or eliminate the spill.

10. Hazardous Substances.—Means any substance or substance mixture that is toxic, corrosive, highly sensitizing, irritating, combustible, flammable or which generates pressure through decomposition, heat or other means, if such substance or substance mixture is capable of causing bodily injuries or illness as a result of its use, management or ingestion.

Section 46.—Limited Immunity.—

A. Notwithstanding the provisions under any other law, no intervening party or person shall be responsible for cleanup, removal or disposal expenses or for damages arising from actions or omissions in remedying or attempting to remedy or eliminating an oil or a hazardous substance spill or in providing or offering attention, aid, assistance or advice following the National Plan or in responding to the instructions or orders of the Onsite Federal Coordinator or the designated Commonwealth official.

B. The above immunity shall not apply to:

1. The parties responsible for the spill.
2. Incidents which lead to personal harm or death.
3. Incidents wherein negligence or acts contrary to the laws

are proven. The party responsible shall respond for cleanup, removal or disposal expenses and for any harm inflicted to any other person released from responsibility under this Section.

C. This Act does not exempt from the responsibility that any party responsible may have for an oil or a hazardous substance spill of any kind.

TITLE V
ON THE PUERTO RICO AND THE CARIBBEAN
ENVIRONMENTAL TRUST FUND

Section 47.—Statement of Purposes.—

It is hereby stated that the public policy of Puerto Rico is to develop and implement the “Latin American Green Bridge” program through the Environmental Quality Board of Puerto Rico, in order for the island to avail itself of the environmental experience of Latin American countries in their interaction, together with Puerto Rico’s experience, to protect the environment. Thus, the government seeks the enrichment of knowledge in legal and technical environmental aspects through the transfer and exchange of progressive technology in the implementation of environmental norms between participating countries and international entities and Puerto Rico.

Section 48.—International Project Unit.—

The International Project Unit of the Environmental Quality Board shall have the purpose of carrying out the initiatives and objectives of cooperation and exchange of information, experiences, and technology pertaining to the field of environmental protection, as sought under the various agreements executed by the Government of the Commonwealth of Puerto Rico through the Environmental Quality Board with certain international entities and governments of the Caribbean and Central and South America.

Section 49.—Creation.—

The “Puerto Rico and the Caribbean Environmental Trust Fund” is hereby created in the Government Development Bank for Puerto Rico. The Environmental Quality Board shall be the trustee of such Fund, in order to carry out the purposes and objectives sought by this Act. The Fund is hereby authorized to pay for the administrative expenses charged by the Government Development Bank for Puerto Rico. To that effect, any funds from private sources deposited into the Puerto Rico and the Caribbean Environmental Trust Fund, as well as any funds generated by the Environmental Quality Board in its sole discretion, covered into the Special Account Set for the Environmental Quality Board, and any other public or private funds.

Section 50.—Application of the Public Fund Investment Trust Act.—

The Puerto Rico and the Caribbean Environmental Trust Fund created under this Act shall be established pursuant to Act No. 176 of August 11, 195, better known as the “Public Fund Investment Trust Act,” with similar purposes, for which reason, the same shall enjoy exemption from taxes and all other exemptions as provided for under such Act.

Section 51.—Revenues and Interest.—

Revenues and interest yielded by the Puerto Rico and the Caribbean Environmental Trust Fund shall be used by the Environmental Quality Board to finance its environmental technical exchange and international cooperation programs and to accomplish the purposes and objectives of this Act.

TITLE VI
ON THE POLLUTION PREVENTION PROGRAM

Section 52.—Public Policy on Pollution Prevention.—

A. Environmental pollution must be prevented and diminished at the source. In cases in which pollutants cannot be offset, these shall be reused or recycled in a manner that is safe for the environment, and in its default, these shall be disposed of through the use of technology approved by the Environmental Quality Board, being its disposal into the environment the last resort, pursuant to the applicable laws and regulations.

B. The efficient execution of this public policy shall improve the quality of life of Puerto Ricans, insofar as there shall be a decrease in health problems associated with pollution; the risk of affecting the food chain shall also be reduced; furthermore, the flora and fauna shall be protected; our socioeconomic sector would derive benefits, inasmuch as the costs for disposal, labor and purchase of raw materials would be reduced; the infrastructure would be protected; there would be an exchange of materials and products that can be reused; and, by reducing the amount of pollutants, the risk of being sanctioned by regulating agencies would be reduced.

Section 53.—Definitions.—

For purposes of this Title, the words and phrases stated below shall have the following meaning:

1. Pollution.—Means the degradation of the natural quality of waters, the air, or the ground, as a direct or indirect result of human activities, as set forth in the regulations of the Environmental Quality Board.

2. Prevention.—Means any practice which reduces the amount of any hazardous substance or pollutant emitted into the environment or which must eventually be disposed of through solid waste disposal techniques. It

also means any practice that diminishes health and environmental hazards through the disposal of such substances and pollutants. The term includes equipment or modifications in technology, processes or modifications in processes, product reformulation or redesign, material replacement, and improvements in maintenance systems, training, inventory control, and home maintenance.

Section 54.—Program; Establishment.—

The public policy set forth in Section 52 of this Act shall be the basis for and be implemented through the Pollution Prevention Program of the Solid Waste Authority, which has been established for several years, with the purpose of developing a pollution prevention program for both the public sector and the private sector in Puerto Rico. The main purpose of the program is to maintain and protect our environment through pollution prevention and reduction at the source of origin, so as to create a healthy setting that promotes the integrated and sustainable development of Puerto Rico. The efficient promotion of the objectives of the Pollution Prevention Program (P2) shall improve the quality of life of Puerto Ricans, insofar as health problems associated with pollution shall diminish. Furthermore, the risk of affecting the food chain shall be reduced. The flora and fauna shall also be protected; our socioeconomic sector shall derive benefits, inasmuch as the costs for the disposal, labor, and purchase of raw materials shall diminish; the infrastructure shall be protected; materials and products that can be reused shall be exchanged; and, in reducing the amount of pollutants, the risk of being sanctioned shall be reduced for pollutant-generating facilities.

Section 55.—Agencies Responsible.—

The Solid Waste Authority shall be empowered to foster and develop research initiatives for the identification and design of measures or alternatives that reduce pollutants at their source and for the identification and design of alternatives to reuse and recycle pollutants whose generation cannot be prevented, through its Pollution Prevention Program (P2), in order to comply with the public policy established in this Act and the regulations adopted by the Environmental Quality Board for the management, treatment, transportation and disposal of pollutants.

The Solid Waste Authority shall also coordinate with all other government agencies and instrumentalities so as to achieve a more efficient cooperation and disclosure of information among the same. Likewise, it shall join efforts with the Office of the Advocate for Small Businesses in the implementation and enforcement of this Act.

The Environmental Quality Board shall be the agency responsible for seeing to the compliance with operating requirements established by this Act, insofar as these are compatible with the regulations adopted and administered by the Board.

Section 56.—Program; Objectives.—

The main objectives of the Pollution Prevention Program (P2) of the Solid Waste Authority shall be:

1. To promote pollution prevention and reduction at its source of origin.
2. To seek the implementation of practices which reduce pollution by pollutant generators and the citizenry.
3. To coordinate with all other government agencies and instrumentalities, as well as with the private business sector and the citizenry

at large, to enforce the public policy set forth in this Act.

Section 57.—Program; Functions and Duties.—

The Pollution Prevention Program (P2) of the Solid Waste Authority shall have the following powers and duties:

1. To educate and offer technical assistance to our people in connection with methods to prevent and reduce pollution at its source of origin.
2. To identify opportunities, operations, and activities in which pollution can be controlled at the source.
3. To prepare an inventory of the ways known to reduce or prevent pollution.
4. To promote the use of ways available to prevent pollution and the development through research of new methods to prevent and reduce at the source.
5. To prepare and implement plans and programs to prevent and reduce pollution at its source of origin.
6. To foster the use of products designed to eliminate or reuse the generation of waste at the source.
7. To promote the reduction of raw materials in the packaging of products by manufacturers.
8. To recommend that the Environmental Quality Board adopt, amend or repeal rules and regulations to establish requirements in order to promote the achievement of the following:
 - a) To increase energy efficiency and conservation.
 - b) To implement, at any stage of a process, techniques which minimize or eliminate pollution.
 - c) To maintain a control over the inventories of materials,

of both raw materials and solid waste.

- d) To engage in good cleaning practices at workplaces.
- e) To train employees in the reduction of pollutant generation.
- f) To establish practices for pollution prevention at the source.
- g) To submit reports or data on pollutant generation.
- h) To take into account pollution prevention and reduction factors when granting permits, franchises, endorsements or authorizations and when amending regulations.

9. To integrate and harmonize programs, studies, activities and efforts by the business sector, the government, and civil organizations in publishing and offering guidance regarding the methods to control pollution at its source.

10. To stimulate the participation of the entire communications media in educational efforts programmed by the government and the general public.

11. Offer guidance to the public about products containing pollutants and substitutes therefor.

12. To require the publication of all efforts, laws, regulations, and research in existence on pollution prevention.

13. To promote educational conferences and the publication of material for government and private offices on methods to prevent pollution.

14. To identify and make recommendations to the Legislature to eliminate any hindrances to pollution reduction at the source of origin, including the use of incentives or sanctions.

15. To develop, validate and publish auditing procedures designed

to identify opportunities to reduce pollution at the source of origin, in coordination with the Environmental Quality Board.

16. To identify pollutant-generating industries, businesses, and government offices that require assistance to develop programs to reduce pollution at the source of origin, in coordination with the Environmental Quality Board.

17. To incorporate measures to prevent and reduce pollution at the source of origin into the educational program for public and private schools.

18. To execute agreements with other public or private entities for the enforcement of this Act or the regulations adopted thereunder.

Section 58.—Environmental Quality Board; Delegation.—

The Environmental Quality Board shall further compliance with the public policy set forth in this Act through its rulemaking authority, through the granting of permits, certificates, authorizations and/or endorsements, and through its oversight powers conferred under Title II of this Act and the regulations adopted thereunder.

The Solid Waste Authority may delegate onto the Environmental Quality Board any other power as necessary for the effective enforcement of this chapter or any regulatory provision adopted thereunder.

None of the provisions of this Act may be understood to limit the power of the Environmental Quality Board to impose measures as necessary, including the issue of orders and the imposition of sanctions, to discharge its overseeing functions as pertains to environmental issues in Puerto Rico.

Section 59.—Donations, Aids, Funds.—

The Solid Waste Authority is hereby empowered to receive donations, aids, and funds, and to take loans and enter into contracts, leases, agreements, and other transactions with any agency or department of the

United States of America, of any state, of Puerto Rico or of any political subdivision thereof or with private entities, and to invest the proceeds of such donations, loans or funds in the operation of the Pollution Prevention Program.

Section 60.—Compatibility with Other Laws.—

This Title and the Pollution Prevention Program established therein are compatible with the provisions of the Solid Waste Authority Organic Act and the laws administered by such Authority, and the powers and authority delegated onto the Environmental Quality Board in the development and implementation of economically feasible and environmentally safe strategies that lead to a reduction in the volume of solid waste requiring final disposal.

Section 61.—Regulations.—

The Solid Waste Authority, within a period of six (6) months as of the date of approval of this Act, shall prepare regulations in which it shall establish the procedures to be followed by the Pollution Prevention Program pertaining the implementation of this Act. Such regulations shall include, among other things:

1. A written policy on pollutant prevention at their source of origin.
2. The scope and objectives of the Program, including technologies, procedures, and training programs to be developed to ensure compliance with this Act.
3. A description and the method for periodic evaluations and/or audits that indicate the reduction achieved. Such evaluations and/or audits shall include information about the kinds and amounts of pollutants generated, where and why such pollutants are generated within the production process, the identification of potential pollutant reduction and

recycling techniques that can be implemented, and management and supervision costs.

4. The establishment of economically feasible technical options for pollutant reduction at the source of origin, including implementation plans and reporting requirements.

Section 62.—Annual Report.—

The Pollution Prevention Program shall prepare an annual report for the Legislature not later than March 31, in which the Program shall state the achievements made during that year and the difficulties encountered, to be submitted together with a work plan for the next year. The Pollution Prevention Program shall be responsible for including in its second annual report, any suggested amendments to the law, or at any timely and necessary occasion.

TITLE VII
ON THE NATIONAL ENVIRONMENTAL AWARENESS AND
REFLECTION DAY

Section 63.—Statement.—

The 1st day of July of every year is hereby designated as the “National Environmental Awareness and Reflection Day in Puerto Rico.”

Section 64.—Definitions.—

The following terms shall have the meanings stated below, except when the context of the provisions of this Act clearly indicates otherwise:

1. Agenda 21 or Program 21.—A broad action program encompassing all areas relative to the planet’s sustainable development from 1992 to the 21st century. The same was presented to all World Governments at the “Earth Summit” held in Rio de Janeiro, Brazil, in June, 1992.

2. Sustainable Development.—Development that meets the

present needs without jeopardizing the needs of future generations. A process in which the economic, fiscal, business, energy, agricultural, industrial and other policies are formulated so as to achieve a development that is sustainable in terms of the economic, the social, and the ecological standpoints. These are ways of economic development and activities that neither degrade nor deplete the natural resources upon which life and the present and the future economic development are dependent.

3. Ecological Footprint.—The footprint measures the human impact on nature. In order to live, people consume that which nature offers. The ecological footprint measures what we consume of the natural environment. It shows how much productive land and water we use, expressed in acres or hectares, in our character as individuals, to maintain our lifestyles, produce all the resources that we consume, and dispose of the waste we generate. The average ecological footprint of an American is thirty (30) acres, that of a Hindu is 1.98 acres, and the average for an inhabitant of this planet is 6.92 acres. But the sad truth is that, for the present world population, nature only provides five (5) acres of productive space per Earth inhabitant. Therefore, citizens in developed countries throughout the world are living at the expense of the productive space of those less fortunate.

Section 65.—Coordination for Observance.—

Observance of the National Environmental Awareness and Reflection Day in Puerto Rico, as provided for in this Act, shall be coordinated by the Environmental Quality Board, together with the Department of Natural and Environmental Resources, the Solid Waste Authority, the Department of Education, the University of Puerto Rico, the Department of Health, the Electric Power Authority, the Aqueduct and Sewer Authority, the Department of Agriculture, the Land Authority, the Department of

Transportation and Public Works, the Highway Authority, the Metropolitan Bus Authority, the Ports Authority, the Tourism Company, the Puerto Rico National Park Company, the Department of Economic Development and Commerce, the Industrial Development Company, the Sports and Recreation Department, and other Executive agencies as the Environmental Quality Board may deem pertinent. The Legislature and all municipalities of Puerto Rico shall also join in the observance.

Section 66.—Purpose of Observance.—

The motif of the day observed shall be to highlight, but not be limited to, the promotion of environmentally low-impact lifestyles and consumer habits; the modification of negative environmental behavior; how to compute, monitor, and minimize our ecological footprint; the development and application of sustainable development indicators; the sustainable development philosophy under the terms established in Agenda 21; environmental degradation and pollution prevention; and the development of sustainable communities, as defined in this Act, among others.

Section 67.—Invitation to Participate.—

All Federal Government agencies with offices in Puerto Rico, as well as private educational entities and all interested community groups and nongovernmental organizations shall be invited to participate in this event.

Section 68.—Government Collaboration.—

All agencies, dependencies, and instrumentalities of the Central Government, as well as the Municipal Governments of the Commonwealth of Puerto Rico, shall provide the Environmental Quality Board with the collaboration necessary to successfully observe this date every year.

Section 69.—On Active Administrative Procedures.—

Any procedures of a quasi-judicial, administrative, adjudicative or

other nature already instituted or pending before the effective date of this Act shall be governed by the laws, regulations, and orders repealed herein pursuant to the law that applied at the time of occurrence of the facts or events which led to such procedures.

Section 70.—On the New Regulations.—

Any agency, instrumentality or public corporation that has been conferred jurisdiction under the present Act and has been delegated with quasi-legislative and/or quasi-judicial powers, must prepare the corresponding regulations in order for these to be approved, and they shall become legally effective within the first one hundred and eighty (180) days following the date of effectiveness of this Act.

Section 71.—On Provision Severability.—

If any clause, paragraph, Section, chapter or title were to be found, in whole or in part, null or unconstitutional by a competent court, such proceeding or ruling shall not invalidate the remaining provisions of this Act, for which reason, the nullity or unconstitutionality shall apply only to that part or portion thus ruled upon by the court.

Section 72.—Laws Repealed.—

Act No. 9 of June 18, 1970, as amended, known as the “Environmental Public Policy Act,” is hereby repealed.

Furthermore, the following special laws are hereby repealed: Act No. 13 of July 7, 1973, known as the “Spillage of Harmful Substances Act”; Act No. 81 of July 2, 1987, as amended, known as the “Puerto Rico Environmental Emergency Fund Act”; Act No. 297 of August 21, 1999, known as the “Environmental Research Laboratory of Puerto Rico Act”; Act No. 257 of August 31, 2000, known as the “Environmental Trust Fund for Puerto Rico and the Caribbean Act”; Act No. 310 of September 2, 2000, the

“Pollution Prevention Act”; Act No. 25 of April 24, 2001, known as the “Noise Prohibition Act”; Act No. 234 of September 27, 2002, known as the “National Environmental Awareness and Reflection Day in Puerto Rico Act”; and Act No. 160 of July 3, 2003, known as the “Noise Awareness Day in the Commonwealth of Puerto Rico Act.”

Section 70.—Effectiveness.—

This Act shall take effect six (6) months after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 416 (H.B. 4790) of the 7th Session of the 14th Legislature of Puerto Rico:

AN ACT to repeal and replace Act No. 9 of June 18, 1970, as amended, known as the “Environmental Public Policy Act”; Act No. 13 of July 7, 1973, the provisions of which were included under Title IV of the new law known as the “Spillage of Harmful Substances Act”; Act No. 81 of July 2, 1987, as amended, known as the “Puerto Rico Environmental Emergency Fund Act”; Act No. 297 of August 21, 1999, known as the “Environmental Research Laboratory of Puerto Rico Act”; Act No. 257 of August 31, 2000, known as the “Environmental Trust Fund for Puerto Rico and the Caribbean Act”; Act No. 310 of September 2, 2000, known as the “Pollution Prevention Act”; Act No. 25 of April 24, 2001, known as the “Noise Prohibition Act”; Act No. 234 of September 27, 2002, known as the “National Environmental Awareness and Reflection Day in Puerto Rico Act”; and Act No. 160 of July 3, 2003, known as the “Noise Awareness Day in the Commonwealth of Puerto Rico Act,” etc.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 20th of August of 2009.

Solange I. De Lahongrais, Esq.
Director

